# Article III: The Courts: Powers and Limitations

**Executive Summary**: This essay explains what Article III actually says; how the Constitution and the Supreme Court have limited federal courts to deciding real "cases" and "controversies"; the doctrines that enforce those limits (no advisory opinions, standing, ripeness, mootness, political questions); the tools courts can and cannot use to remedy legal wrongs (injunctions, declaratory judgments, class actions); Congress's power to shape—yet not control—the courts (jurisdiction, exceptions, and separation-of-powers guardrails); and what happens when the executive branch resists judicial orders. Along the way we connect those principles to live issues—most recently the Supreme Court's 2025 order in *Trump v. CASA, Inc.*, restricting district courts' use of "universal" injunctions.

## Introduction

What, exactly, can federal judges do—and what can't they do? Few questions matter more for public policy. The Constitution's Article III sketches the federal judiciary's job description in just a handful of clauses. But over two centuries, cases, statutes, and practice have fleshed out both the scope of that power and its limits. This essay offers a narrative map: where federal courts may tread, where they may not, and why those boundaries matter for governance.

Alexander Hamilton, in Federalist No. 78, famously called the judiciary the "least dangerous" branch because it has "neither FORCE nor WILL, but merely judgment." That line is quotable for a reason: it captures both the court's authority and its dependence. Courts decide concrete disputes according to law; they do not command armies or budgets and must rely on the political branches to carry out judgments. The Constitution cements that independence with life tenure and salary protection, but it also limits judicial power to "cases" and "controversies"—terms that have birthed an entire law of justiciability.

## I. What Article III Authorizes

Article III vests "the judicial Power of the United States" in "one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." It then lists the kinds of disputes federal courts may hear—cases arising under the Constitution, treaties, and federal law; disputes among states and between citizens of different states; admiralty and maritime jurisdiction; cases involving ambassadors; and other narrow categories—and allocates the Supreme Court's original jurisdiction (limited) and appellate jurisdiction (broad, subject to "such Exceptions, and under such Regulations as the Congress shall make"). This textual architecture is not just civics; it shapes day-to-day policymaking by defining which forums can resolve what kinds of conflicts—and when.

Hamilton's Federalist Nos. 80–81 help translate the blueprint into purpose. No. 80 defended a national judiciary to ensure uniformity in federal law and to safeguard the "peace of the Confederacy." No. 81, anticipating objections, emphasized that it was up to Congress's discretion whether to create lower courts and how to structure them, and that the Supreme Court would usually function as an appellate tribunal, not a first-instance court. Those design choices limit judicial reach even as they preserve a final arbiter for federal questions.

The early Court added another foundational limit: no advisory opinions. In 1793, President Washington asked the justices for guidance on neutrality questions. Chief Justice John

Jay—the first chief justice—writing for his colleagues, politely refused, explaining that the Constitution's separation of powers and the specific provision allowing the president to consult *executive* department heads implied that judges should avoid extrajudicial advice. Ever since, federal courts have insisted that their power extends only to real disputes between adverse parties. More than a century later, the Court distilled that principle into doctrine. In *Muskrat v. United States* (1911), Congress had invited "friendly" litigation to test a statute's validity. The Court said no: without genuinely adverse parties and concrete stakes, there is no case or controversy for Article III purposes.

The Jay correspondence with President Washington thus supplies the constitutional and cultural DNA of federal adjudication: judges decide cases, rather than giving advice. Policymakers sometimes chafe at that boundary, wishing for early judicial sign-off on complex programs. But the advisory-opinion ban has two salutary effects. First, it preserves separation of powers by keeping courts out of policy design. Second, it improves judicial decision-making by anchoring opinions in concrete facts, adversarial briefing, and the discipline of remedies. *Muskrat* fits that logic: a "test" case manufactured without adverse parties risks abstract pronouncements unmoored from real-world consequences.

From the beginning, the Court has insisted that Congress may not expand the Court's original jurisdiction beyond Article III's list—the core holding in *Marbury v. Madison* (1803)—even though Congress can make exceptions and regulations to appellate jurisdiction. *Marbury* also announced judicial review: the Court's duty to say what the law is when deciding cases.

Congress nevertheless created a useful (and lawful) alternative to advisory opinions: the Declaratory Judgment Act, which authorizes courts to declare the legal rights of parties "in a case of actual controversy." In *Aetna Life v. Haworth* (1937), the Court upheld declaratory judgments precisely because they are tethered to a real dispute in the constitutional sense. That tool lets litigants clarify rights before irreparable harm—without turning judges into roving legal advisers.

## II. What Article III Limits

### A. Standing: Who gets to sue?

Standing asks whether the plaintiff is the right person to invoke judicial power. The canonical formula has three parts: injury in fact (concrete and particularized, actual or imminent), traceability to the defendant, and redressability by the court. *Lujan v. Defenders of Wildlife* (1992) insisted that speculative or generalized grievances won't do. *Spokeo v. Robins* (2016) reaffirmed concreteness, and *TransUnion v. Ramirez* (2021) emphasized that class members without a concrete harm cannot recover damages in federal court. These requirements keep courts from resolving policy questions in the abstract, providing room for the elected branches to do so.

The doctrine has nuance. *Frothingham v. Mellon* (1923) rejected broad taxpayer standing, and *Allen v. Wright* (1984) stressed the need for a close causal chain. Yet *FEC v. Akins* (1998) recognized that Congress can sometimes create informational injuries that count, and *Massachusetts v. EPA* (2007) extended a measure of "special solicitude" to states asserting sovereign interests. The through-line is not hostility to enforcement, but insistence that federal

courts police the line between public-at-large complaints and legally cognizable injuries appropriate for judicial resolution.

Organizational suits raise familiar questions. *Sierra Club v. Morton* (1972) held that an environmental group lacked standing absent alleged injuries to its members, while *Warth v. Seldin* (1975) described standing as asking whether the litigant is "entitled to have the court decide the merits." Those two decisions remain teaching-case staples.

For public policy, standing doctrine channels litigation toward those with skin in the game and ensures courts do not become venues for generalized policy debates. *Lujan* and *TransUnion* tighten this filter; *Akins* and *Massachusetts* show Congress and states still have routes into court when their interests are genuinely affected. The message for policymakers is strategic: if a regulation is crafted with clear obligations and concrete effects, those subject to it are appropriate plaintiffs when legal disputes arise; if a program's harms are diffuse, litigation will be harder and political remedies more salient.

### B. Ripeness: Is it too early to sue?

Even if the right plaintiff sues, the dispute might be "unripe"—too contingent to warrant judicial intervention. The classic test from *Abbott Laboratories v. Gardner* (1967) asks courts to assess fitness (are the issues sufficiently legal and concrete?) and hardship (is withholding review costly to the parties?). *Texas v. United States* (1998) is archetypal unripeness: a challenge to a federal law before it had been enforced and without a concrete application to anyone. And *Susan B. Anthony List v. Driehaus* (2014) shows the counterexample—a threat of enforcement, particularly in the First Amendment context, where a chilling of speech is at issue—can make a pre-enforcement suit ripe.

In other words, a rule that is not yet enforced but credibly threatens regulated parties can be ripe for review. For government agencies, careful staging and guidance can reduce premature lawsuits; for regulated entities, documenting hardship and credible enforcement risk can open the courthouse door at the right time. Meanwhile, purely hypothetical conflicts waste judicial resources and can boomerang when courts impose ripeness discipline.

### C. Mootness: Is it too late to sue?

A case must stay alive through all stages of litigation. If the plaintiff's personal stake evaporates, the case becomes "moot"—with important exceptions. In *Friends of the Earth v. Laidlaw* (2000), the Supreme Court refused to let a polluter moot a citizen suit by voluntarily ceasing violations; the defendant must show the wrong is not reasonably likely to recur. *Chafin v. Chafin* (2013) similarly held that an international-child-abduction case wasn't mooted simply because the child had already been returned overseas; courts could still grant meaningful relief. And the "capable of repetition yet evading review" doctrine keeps short-duration controversies—think pregnancy in abortion cases—from always slipping away.

Policy often moves faster than litigation. *Laidlaw* (voluntary cessation) and *Chafin* (effective relief remains possible) keep defendants from gaming the clock and ensure that short-duration controversies can be resolved. The broader policy lesson is to plan for durable remedies: if a program is likely to change quickly, parties should think about interim relief—much in the news in the second Trump administration—and record-building so that appellate courts can decide issues before they slip away.

### D. Political Questions: When law runs out

Sometimes, the Constitution assigns an issue to the political branches or offers no judicially manageable standards for courts to apply, such that courts won't entertain lawsuits over such disputes. *Baker v. Carr* (1962) provided a famous list of political-question indicators:

1. "Textually demonstrable constitutional commitment of the issue to a coordinate political department," such as issues of foreign affairs and executive war powers;
2. "A lack of judicially discoverable and manageable standards for resolving it";
3. "The impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion";
4. "The impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government";
5. "An unusual need for unquestioning adherence to a political decision already made"; and
6. "The potentiality of embarrassment from multifarious pronouncements by various departments on one question."

Accordingly, the Court in *Goldwater v. Carter* (1979) treated a dispute over unilateral treaty termination as a political question. And in *Nixon v. United States* (1993), it held that challenges to the Senate's impeachment procedures—in a case involving a judge, not the former president—are nonjusticiable because the Constitution commits trials to the Senate's "sole power." Most recently, *Rucho v. Common Cause* (2019) concluded that partisan-gerrymandering claims posed a political question beyond federal courts' competence. These guardrails ensure that courts decide legal disputes rather than refereeing policy battles when the Constitution gives no rule of decision. Not every hard problem has a judicial solution; democratic processes sometimes have to do that work, to produce not the "right" decision, but the most politically legitimate one. For legislators and administrators, that means designing institutions—independent commissions, transparent procedures, state-level innovations—that can mitigate partisan pathologies without conscripting courts into fundamentally political battles.

### E. The Treason Clause—A Unique, Substantive Limit

Unusually, Article III also defines *one* crime—treason—and narrows how it can be proved and punished. Treason "shall consist only in levying War against [the United States], or in adhering to their Enemies, giving them Aid and Comfort." Conviction requires two witnesses to the same overt act or confession in open court, but Congress may not impose "corruption of blood" (punishing a traitor's heirs). The Supreme Court has reinforced the narrowness of this crime: *Ex parte Bollman* (1807) held that mere conspiracy does not equal "levying war," while *Cramer v. United States* (1945) required that overt acts genuinely show "aid and comfort," emphasizing the Constitution's strict evidentiary safeguards.

All of these limits are part of the broader Article III theme: the Framers wanted judicial power to be strong enough to enforce law, yet confined enough to protect liberty.

## III. Checks on Article III by the Other Branches

Two early decisions from the Supreme Court presided over by Chief Justice John Marshall—the "great chief"—secured the Court's role atop the federal system, in addition to other precedents that set norms of governance that remain to this day. *Martin v. Hunter's Lessee* (1816) and *Cohens v. Virginia* (1821) established the Supreme Court's appellate authority over state-court decisions on federal law, which is vital for national uniformity—a single Constitution applied across 50 states. But that doesn't mean that the Court's own prudential doctrines are the only check on its authority. Indeed, the legislative and executive powers provide useful limitations on the Article III judicial power.

### A. Legislative Branch

Article III's "Exceptions and Regulations" Clause lets Congress shape the Court's appellate docket, while also giving Congress the power to create (or not) lower courts and define their jurisdiction. But that power is not boundless.

For example, in *Ex parte McCardle* (1869), the Court acknowledged Congress's authority to withdraw a slice of its appellate jurisdiction, while in *Felker v. Turpin* (1996), the Court sustained congressional limits on successive habeas corpus petitions (a legal procedure asking a a court to review the lawfulness of an individual's detention). Yet in *United States v. Klein* (1871), Congress went too far, effectively dictating how courts should decide pending cases by withdrawing jurisdiction contingent on a favored outcome; that infringed the judicial power.

By contrast, statutes that change the law and then direct courts to apply the new rule to pending cases are generally permissible: *Robertson v. Seattle Audubon* (1992), *Bank Markazi v. Peterson* (2016), and *Patchak v. Zinke* (2018) all illustrate the difference between legislation that alters rights and legislation that commands results under old law.

The Court has also policed separation-of-powers from the other direction. It found in *Plaut v. Spendthrift Farm* (1995) that Congress's attempt to reopen final judgments violated the constitutional principle of judicial finality. The lesson is straightforward: Congress may steer courts' future work, but it may not order courts to decide an existing case a particular way or reopen what is already conclusively decided.

Scholars have long debated how far Congress's jurisdiction-shaping authority extends. Some emphasize the text and traditional understanding that Congress may significantly limit jurisdiction; others highlight the supremacy of federal law and the role of state courts if Congress were to constrict federal jurisdiction too tightly. Policymakers considering "jurisdiction stripping" should read both sides carefully. For practitioners and policymakers, the workable line is the one Justice Thomas summarized in *Patchak*: Congress violates Article III when it "compel[s] . . . findings or results under old law," but not when it changes the law to be applied.

### B. Executive Branch

Courts decide the law, but it's the executive branch enforces it. That structural fact is both a weakness and a strength. On the one hand, nonenforcement can test judicial authority—think of the oft-retold (and potentially apocryphal) story of President Andrew Jackson's reaction to *Worcester v. Georgia* (1832): "John Marshall has made his decision; now let him enforce it!"—or President Abraham Lincoln's refusal to accept the ruling in *Ex parte Merryman* (1861) that only

Congress could suspend *habeas corpus*. On the other hand, dependence on the executive and legislature forces courts to wield their power with institutional modesty. As Hamilton put it in Federalist No. 79, the judiciary's independence hinges on tenure and salary protection, but that very independence counsels restraint in the face of political storms.

In modern practice, courts do have enforcement tools—contempt, sanctions, and coordination with the U.S. Marshals Service—but they cannot run programs or appropriate funds. For public officials, this means that compliance planning is as much about governance design as it is about lawful orders. The better a policy is structured to create clear obligations and accountability, the less likely it is to crash into remedial turbulence.

**IV. Why the Limits Make Sense and How They Relate to Modern Debates**

Hamilton's judicial essays (Federalist Nos. 78, 79, 80, 81) read today like a memo to public officials. No. 78 defends judicial review not as supremacy over the people, but as a safeguard for the higher law they enacted in the Constitution—"an intermediate body between the people and the legislature." No. 79 explains why tenure and pay are bulwarks against political pressure. No. 80 justifies national jurisdiction to ensure uniformity and protect interstate peace. No. 81 anticipates congressional control over the courts' structure and appellate channels. Taken together, they argue for courts that are independent yet bounded—a design that lifts the rule of law while avoiding rule by judges.

Those essays also illuminate current fights. Debates over universal injunctions echo Hamilton's intuition that remedies should fit parties and disputes. Jurisdiction-stripping proposals raise the same separation-of-powers questions Hamilton flagged about how much Congress can channel judicial business without dictating outcomes. And the "neither force nor will" maxim explains why enforcement politics—"cooperative" federalism, interbranch dialogue, and public buy-in—often matter as much as jurisprudential wins.

Prudential doctrines—standing, ripeness, mootness, etc.—often reflect deeper views about the separation of powers. Then-Judge Antonin Scalia argued more than four decades ago that strict standing protects democratic accountability by keeping generalized grievances out of court. Other scholars have argued for broader citizen and statutory standing to ensure that the executive branch follows the law. Still others have revived the historical public/private rights distinction to reconcile modern standing with Article III's original meaning. Policymakers and citizens should appreciate that "technical" standing fights often mask big constitutional choices about who gets to police which legal wrongs.

Battles over remedies, which translate legal rulings into action, likewise reflect structural constitutionalism. Traditionally, federal courts provide relief to parties: injunctions that bind the defendant as to the plaintiff, damages to compensate the plaintiff, and (since 1934) declaratory judgments that clarify rights in an actual controversy. In recent years, however, district courts have increasingly issued universal (or nationwide) injunctions: orders halting a federal policy as to non-parties across the country. That practice supercharges a single judge's impact, with obvious policy consequences. A 2024 *Harvard Law Review* data set documented the rising frequency of universal injunctions during recent administrations, while a 2025 Congressional Research Service analysis surveyed the doctrinal and practical criticisms of this increased phenomenon (forum shopping, conflicting injunctions, and disruption of nationwide programs).

On June 27, 2025, the Supreme Court confronted the issue head-on in *Trump v. CASA, Inc.* The Court held that district courts lack equitable authority to issue universal injunctions;

injunctive relief ordinarily protects only the plaintiffs, not everyone. The decision arose in litigation over an executive order that would have conditioned birthright citizenship on parental status; several lower courts had enjoined the order nationwide before the Supreme Court curtailed that remedy. The upshot is significant: merits rulings still bind the government as to prevailing plaintiffs, but a single district judge may no longer stop a federal policy for non-parties absent class certification or other lawful mechanisms.

That ruling pushes the system back toward party-bound remedies, with policymakers expecting narrower injunctions and more emphasis on class actions when system-wide relief is warranted. That is, federal courts can follow the rules of civil procedure (specifically Rule 23) to produce class-wide injunctions that operate nationwide, but only after they certify that: (1) the class is large enough that joining all members individually is impractical ("numerosity"); (2) there are common questions of law or fact among class members ("commonality"); (3) the claims of the class representatives are typical of the class ("typicality"); and (4) the representatives will fairly protect the interests of the class ("adequacy"). If universal injunctions are off the table, class litigation becomes the logical vehicle for broader relief: more procedurally demanding, but also more consistent with Article III's party-specific orientation.

But even *CASA* may be less than meets the eye: the majority granted the government relief "only to the extent that the injunctions are broader than necessary to provide complete relief to each plaintiff with standing to sue," raising the question of whether nationwide relief is still on the table when, as in the birthright citizenship litigation, states are parties (and bear administrative costs when people move among them). Courts also sometimes "set aside" (vacate) agency rules under the Administrative Procedure Act (APA). Whether this "vacatur" process operates universally is the subject of ongoing judicial and scholarly debate, which *CASA* did not resolve. The line between party-specific injunctions and broader forms of administrative relief remains an active legal frontier.

## V. What All This Means in Real Life

### A. Courts Are Powerful—but Reactive

Federal courts can invalidate statutes, restrain presidents, and reshape policy. But they do so only when a real plaintiff with a concrete injury brings a live dispute that courts are competent to resolve. They cannot issue general advice. They do not supervise the political branches. They act—in Hamilton's words—by judgment.

### B. The Case-or-Controversy Requirements Aren't Technicalities

They are the means by which courts stay in their lane:

- *Standing* ensures that the person before the court actually suffers a cognizable injury traceable to the defendant and likely to be remedied by the requested relief.
- *Ripeness* prevents advisory opinions by demanding disputes be fit for decision without undue speculation—but credible threats of enforcement can make a controversy ripe before anyone breaks the law.

- *Mootness* keeps courts focused on ongoing disputes, with certain exceptions and clarifications that courts use so government officials can't avoid accountability and important recurring issues can make it to final judgment.
- Political questions reserve some issues—like impeachment procedure and partisan gerrymandering—for elected branches unless Congress supplies standards.

### C. Remedies Must Fit the Case

Universal injunctions—orders protecting nonparties—likely exceed federal equity. Relief should ordinarily be limited to the plaintiffs, including states that have standing to sue. Judicial rulings can effect a broader reach, if at all, via class actions or final Supreme Court resolution. Policymakers who favor or oppose national policies should therefore plan litigation and legislation with party-specific remedies in mind. At the same time, declaratory judgments remain a powerful way to clarify rights in actual controversies, and APA review (including vacatur) continues to be debated on scope and effect.

### D. Congress Has Real Levers, But Not a Steering Wheel to Decide Cases

Congress can: establish and shape lower courts; channel and limit Supreme Court appellate jurisdiction; and change the law, even for pending cases. But Congress cannot: order federal courts to reach particular results in pending disputes; reopen final judgments; or destroy the essential role of the judiciary in saying what the law is in cases and controversies.

Legislative proposals to "strip jurisdiction" or to target specific cases should therefore be vetted against these constitutional guardrails and the modern case law, which together outline a zone of congressional influence bounded by separation-of-powers principles.

### E. Enforcement Requires the Executive

History shows that judicial decrees depend on executive enforcement. The judiciary's soft power—public trust, clarity of reasoning, and institutional legitimacy—matters. So do statutory frameworks that anticipate compliance, create incentives, and reduce the need for frontal confrontations among branches. Courts can hold parties in contempt, but they do not command armies or agencies; enforcement ultimately relies on executive-branch actors.

## Conclusion

The federal judiciary is neither omnipotent nor toothless. Properly understood, Article III makes courts strong where they should be strong—resolving concrete disputes under law—and limited where they should be limited—leaving generalized policy choices to the elected branches unless and until a real case brings those choices to a court's doorstep. That balance is not a flaw of our constitutional design; it's the point.

The genius of Article III is not judicial power alone; it's judicial power under law. By insisting on concrete disputes, channeling institutionally political questions away from courts, and permitting Congress to structure jurisdiction without dictating outcomes, the Constitution fashions an independent judiciary that still fits inside a republican framework. That balance—anticipated by Federalist 78–81, reinforced by the Jay correspondence, and refined by

case law from *Marbury* to *Rucho*—is why federal courts can safeguard constitutional limits without becoming a "council of revision" or a national policymaking board.

For policymakers, the practical upshot is clear. Well-designed programs, mindful of Article III's boundaries and remedial pathways, are more legally durable. For citizens, those same limits protect both liberty and democracy—ensuring that courts exercise judgment, not will, and that ultimate responsibility for policy remains where the Constitution put it: with the people and their elected representatives.