



## **Judicial Nominations Educational Materials Program on Judicial Nominations for Youth 20-40 students 75 minutes**

### **Goals:**

- To teach participants about the nine Supreme Court Justices
- To give participants a basic understanding of the Federal Bench's structure and role
- To show participants how they can have an impact on the judicial nominations process
- To elucidate the connection between Judaism and judicial nominations

### **Materials**

- A piece of paper and a pencil for each student
- Copies of Attachments II and IIX for each student
- Copies of Attachments III-VI (each student should receive one of the four documents, the number of copies should be equal to the size of the small groups)
- Four Copies of Attachment VII for Group leaders
- Nametags for each student

### **Timeline:**

0:00-0:15	Set Induction/Quiz
0:15-0:20	Basic Background
0:20-0:22	Divide Students into Small Groups
0:22-0:35	Text Study
0:35-0:50	Issue Exploration: Does the Supreme Court Have an Impact on Issues that I Care About?
0:50-1:05	Marketplace of Ideas
2:05-1:15	Wrap Up

### **Procedure:**

#### **0:00-0:15 Set Induction/Quiz**

Divide students into small groups (5-7 students) and instruct them to select the 9 Supreme Court Justices from a list of 20 people (Attachment I). Ask the groups to raise their hands when they are done. Facilitator should float around the room, checking each group's answers until one of the groups correctly identifies all 9 Justices.

#### Discussion:

- Was this activity difficult?
- Do you think the difficulty is unique to the people in this room?
- Do you feel confident that you could name the President of the United States? Your members of Congress?
- Why are we so unfamiliar with Supreme Court Justices and the Judicial Branch of the United States Government?

Key points to cover during this discussion:

- The American public does not feel particularly connected to or affected by the Courts; the majority of Americans can't name the 9 Justices of the Supreme Court and don't have a solid understanding of how the Judicial Branch works.
- Why are we so unfamiliar with the Judicial Branch?
  - We don't directly vote for judges
  - We don't think we can influence judges/Justices decisions, so we focus our attention elsewhere
  - The Supreme Court is talked about as a unit and we don't hear as much about individual Justices
  - Justices and judges do not often make public appearances or statements outside of their official capacities
  - We underestimate the impact that the Courts have on our lives

### **0:15-0:20 Basic Background**

Information to cover:

- There are three branches of the United States government- Executive, Legislative, Judicial
- There are 94 district courts, 13 appellate courts, and one Supreme Court
  - Cases begin in the district courts and then they can be appealed to the Appellate Courts (also known as the Circuit Courts). Cases heard in the Appellate Courts can be appealed to the Supreme Court.
  - Thousands of cases are heard in the Federal courts every year (the 13 appellate courts alone here around 60,000 cases), but only about 75-100 cases are heard at the Supreme Court level. Therefore, district and appellate courts are the courts of last resort for many cases and are therefore incredibly influential/important.
- The President nominates all Federal judges, who are appointed "by and with the Advice and Consent of the Senate"
- All judges and Justices serve lifetime appointments

### **0:20-0:35 Text Study**

Each group should begin with a text study (Attachment II) on judicial nominations and the judiciary. The text study should be done in pairs (*chevrutah*) and the group leader should float around to the groups to be sure that they are focused and on-topic. The text sheet provides students with the discussion questions.

After students have spent about 10 minutes in pairs, the facilitator should bring everyone back together and ask people to share what they discussed about each question. The group leader should be sure that the following key points are covered:

Discussion Question 1:

- The first text reminds us that pitying the poor is as equally as repugnant as taking bribes from the rich. It reminds us that judges must be truly impartial and not favor the interest of one party over another, no matter the circumstances.

Discussion Question 2:

- We need to not only behave justly personally but also build a just system of justice and a fair and impartial legal system so that all people will be treated justly. We can do this by fighting against judicial nominees that we oppose and supporting those who are committed to upholding the values in which we believe.

Discussion Question 3:

- Many of the values that we would look for in judges today are the same as those that Jethro lists when advising Moses--we still search for capable, trustworthy men who spurn ill-gotten gain. These days, we would not consider fearing God to be an essential criterion for being put on the bench. In fact, we would object to someone being nominated to the bench simply based on his or her faith.
- These criteria can help us decide whether we want to support or oppose a nominee to the federal bench.
- The system of justice that Moses creates resembles our own as it has multiple “levels” of courts.

Discussion Question 4:

- The Jewish people were among the first to establish a code of laws to guide the behavior of the people
- When the Supreme Court issues a decision, the majority and minority positions are all preserved—this resembles a page of Talmud

**0:35-0:37 Divide Students into 4 Groups (either let them choose or assign them)**

Group 1: Civil Rights for the Gay Community

Group 2: Reproductive Rights

Group 3: Environment

Group 4: Separation of Church and State

**0:37-0:50 Issue Exploration: Does the Supreme Court Have an Impact on Issues that I Care about?**

Each group will have a different set of texts and information about Supreme Court cases (Attachments III-VI). Each group will also have a handout with an overview of the judicial nominations process and the ways to get involved in advocacy on judicial nominations (Attachment IIX).

The Group leader will receive discussion questions to guide the group as you are exploring the materials that you are given (Attachment VII).

After the group has discussed the Supreme Court cases and accompanying Jewish teachings, the group leader should help the group come up with talking points to answer the following questions:

- Does the Supreme Court have an impact on this issue? What evidence do we have?

- What are the Jewish values related to this issue?
- Why are judicial nominations important?
- How can you have an impact on the judicial nominations process?

Each student should write down his or her own version of the talking points.

### **0:50-1:05 Marketplace of Ideas**

Each individual will create a nametag that says, “I care about \_\_\_\_\_, so I care about the Courts. Ask me!” (filling in the blank with the issue that he or she explored in the small group).

The students will be instructed to wander around the room and speak with three other people—one from each issue group. They should learn from the other students about how the Supreme Court impacts each of the issues. They should also discuss how to have an impact on the Judicial Nominations process. Students should use their talking points to guide their conversations.

### **1:05-1:10 Wrap Up**

Review the key points:

- The Courts have an impact on our lives and the issues we care about.
- Judges on these Courts determine the decisions that are issued from the Courts.
- The best way to have an impact on the Judiciary Branch is to get involved in debates over judicial nominations.
- You can get involved with judicial nominations by learning about nominees who are announced and sharing your opinions about them with the Senate Judiciary Committee and your state’s Senators.

Before leaving, ask three people to share something that they learned (something they didn’t know before they entered the room today).

## Attachment I Names

### **Randomized List:**

Sandra Day O'Connor  
John Roberts  
Anthony Kennedy  
Roberto Mendoza  
Samuel Alito  
Patrick Leahy  
Ruth Bader Ginsburg  
Wade Roe  
Antonin Scalia  
Jeff Sessions  
Harry Reid  
David Souter  
Clarence Thomas  
Judith Sheindlin  
Earl Warren  
John Paul Stevens  
Steven Breyer  
Kathryn Kolbert  
Dahlia Lithwick  
Sonia Sotomayor

### **Identities:**

#### ***Others (11):***

Sandra Day O'Connor (former Supreme Court Justice; first woman on the Supreme Court)  
Roberto Mendoza (Supreme Court Justice on the TV show, West Wing)  
Patrick Leahy (Chairman of the Senate Judiciary Committee)  
Wade Roe (variation on Roe v Wade)  
Jeff Sessions (Ranking member (i.e. top member of the minority party) of the Senate Judiciary Committee)  
Harry Reid (Senate Majority Leader- Nevada)  
David Souter (former Supreme Court Justice)  
Judith Sheindlin (Judge Judy from TV)  
Earl Warren (former Chief Justice of the Supreme Court—during Brown v. Board)  
Kathryn Kolbert (President of PFAW, a leading progressive activist group on Judicial Nominations)  
Dahlia Lithwick (Supreme Court Journalist)

#### ***Justices (9)***

John Roberts (Chief Justice)	
John Paul Stevens	Antonin Scalia
Ruth Bader Ginsburg	Samuel Alito
Clarence Thomas	Anthony Kennedy
Steven Breyer	Sonia Sotomayor

## **Attachment II Text Study**

### **Texts on judicial nominations and the judiciary:**

“You shall not render an unfair decision; do not favor the poor or show deference to the rich; judge your kinsman fairly” (Leviticus 19:15)

“You shall not judge unfairly: you shall show no partiality; you shall not take bribes, for bribes blind the eyes of the discerning and upset the plea of the just. Justice, justice, shall you pursue” (Deuteronomy 16:19-20)

Jethro instructs Moses, “You shall also seek out from among all the people capable men who fear God, trustworthy men who spurn ill-gotten gain . . . let them judge the people at all times. Have them bring every major dispute to you, but let them decide every minor dispute themselves.” (Exodus 18:21-22)

### **Discussion Questions:**

1. In the second text, we learn that a judge should not take bribes. The first text goes a step further, stating that a judge should not “favor the poor or show deference to the rich.” What is the difference between these two statements?
2. The pursuit of justice is something that we all engage in and that our community values very highly. How can we apply this value to our advocacy on the Judiciary Branch?
3. Jethro advises to Moses about how to pick judges from among the people. Is this advice that we would follow today (do certain parts seem applicable or is all of it applicable)? How can we apply it to our work on Judicial Nominations? How does the system of justice that Moses establishes reflect our own?
4. How else does the Court system resemble/reflect Jewish teachings/values?

### **Attachment III**

#### **Civil Rights for the Gay Community**

##### **Supreme Court Cases:**

###### *Boy Scouts of America v. Hale (2000)*

- Determined that a private organization is allowed to exclude a person from membership under the First Amendment's right to freedom of association, in spite of state antidiscrimination laws
- Specifically, declared that the Boy Scouts of America did not have to readmit an openly gay Scoutmaster whom they had dismissed because of his sexual orientation

###### *Lawrence v. Texas (2002)*

- Declared unconstitutional a Texas law that prohibited consensual, private sexual acts between same-sex partners
- Re-affirmed the right to privacy regardless of sexual orientation

##### **Jewish Teachings:**

And God created man in God's own image, in the image of God (b'tselem elohim), God created him; male and female, God created them. (Genesis 1:27)

You shall not oppress a stranger, for you know the feelings of the stranger, having yourselves been strangers in the land of Egypt. (Exodus 23:9)

## **Attachment IV Reproductive Rights**

### **Supreme Court Cases:**

#### *Roe v. Wade (1973)*

- Held that a mother may abort her pregnancy for any reason, up until the "point at which the fetus becomes 'viable.'" The Court defined viable as being "potentially able to live outside the mother's womb, albeit with artificial aid. Viability is usually placed at about seven months (28 weeks) but may occur earlier, even at 24 weeks."
- Under the *Roe* decision, most laws against abortion in the United States violated a constitutional right to privacy
- The Court also held that abortion after viability must be available when needed to protect a woman's health

#### *Gonzales v. Carhart (2007)*

- Upheld the constitutionality of a law that banned a certain abortion procedure
- This is the first decision related to reproductive rights that DOES NOT include an exception when a woman's health is at risk

### **Jewish Teachings:**

When men fight, and one of them pushes a pregnant woman and a miscarriage results, but no other damage ensues, the one responsible shall be fined according as the woman's husband may exact from him, the payment to be based on reckoning. But if other damage [to the woman] ensues, the penalty shall be life for life . . . (Exodus 21:22 – 23)

If a woman is undergoing a perilous pregnancy, the child must be cut up while in the womb and brought out limb by limb, since the life of the mother takes precedence over the life of the child; but if the greater part of it was already born, it may not be touched since the claims of one life cannot override the claim of another life. (Mishnah Ohaloth 7:6)

**Attachment V**  
**Separation of Church and State- Religion in the Public Schools**

**Supreme Court Cases:**

*Abington Township v Schempp (1963)*

- Invalidated a Pennsylvania law requiring public school students to read ten Bible verses and recite the Lord's Prayer at the beginning of each day

*Edwards v Aguillard (1987)*

- Declared unconstitutional a Louisiana law requiring that creation science/ creationism be taught alongside evolution in public school science classrooms
- The Court saw this law as specifically designed to advance a particular religious perspective and therefore, as a violation of the separation between Church and State

**Jewish Teachings:**

- Unlike most other issues that the Religious Action Center works on, religious texts or Biblical mandates do not generally explain our commitment to the separation of church and state. Instead, our historical experience of persecution informs our advocacy. We recognize that the religion clauses of the First Amendment made the United States the refuge of choice for Jews and others throughout the world. As members of a religious minority whose history is so dominated by oppression, we are especially sensitive to any effort to weaken the safeguards of pluralism and minority expression
- “Only in America have Jews been free to pursue our faith and to organize our communal lives, equal under law and in practice, without government interference. Thus America – through its Constitution – created a system of religious liberty that has proved to be generally fair and effective, one that Jews wish to preserve. Jews have learned, through history, that both religion and state flourish best when they are separate.” (Jewish Dimensions of Social Justice by Al Vorspan and Rabbi David Saperstein, 281)

## **Attachment VI Environment**

### **Supreme Court Cases:**

#### *Massachusetts v EPA (2007)*

- The Supreme Court for the first time recognized carbon dioxide as a major contributor to global warming and ruled that the EPA has the authority to regulate tail pipe emissions.

#### *Winter v Natural Resources Defense Council (2008)*

- The Supreme Court decided that the Navy can continue its use of sonar during certain training procedures despite potential/predicted negative impact on marine life (particularly whales) in the area.

### **Jewish Teachings:**

Genesis 2:15 tells us that God placed men and women on earth "to till and to tend" creation. The Talmudic commentary on this verse adds these instructions from God: "Take care, lest you spoil and destroy my world, because if you do, there is no one after you to make it right again." (Kohelet Rabbah 7:13).

The Biblical commandment of *bal tashchit*, do not destroy, was developed by Talmudic sages into a universal doctrine mandating that people not waste in any aspect of their lives.

**Attachment VII**  
**Discussion Questions for Small-Group Leaders**

What are the real-life impacts of the Supreme Court decisions described?  
Considering the Jewish teachings that we have studied and what you already know about this issue, do you think the Union for Reform Judaism would agree with/ be pleased with these decisions? Are you pleased with these decisions?

These decisions reflect the opinions of the Justices who were serving on the Supreme Court at the time that the cases were heard. Could the cases have been decided differently if different Justices were in place? Do you have any ideas about how to have an impact on which Justices serve on the federal bench? (review Attachment VII as a group)

In what ways have you been an advocate on the issue that we are discussing in the past? How does this information about the Courts and their impact on this issue change how you will be an advocate in the future?

**Attachment IIX**  
**Judicial Nominations Process**

# The Judicial Nominations Process



and how YOU can have an impact



The President nominates judges  
“by and with the advice and consent of the Senate.”

## GOVERNMENT

1. Judge/Justice retires, dies or is convicted on impeachment
2. President announces a nominee
3. Nominee referred to the Senate Judiciary Committee
4. Senate Judiciary Committee holds a hearing on the nominee
5. Judiciary Committee reports a “favorable recommendation,” “unfavorable recommendation,” or “no recommendation”
6. Senate holds hearings on nominee
7. Senate votes on the nominee
7. Confirmed judge/Justice takes his or her seat on the bench

## YOU

### Research the nominee!

Find out about his/her qualifications, background, and judicial philosophy. The following organizations can help: Religious Action Center ([www.rac.org](http://www.rac.org)), Alliance for Justice ([www.afj.org](http://www.afj.org)), Leadership Conference on Civil Rights ([www.civilrights.org](http://www.civilrights.org))

### Write a Letter or Make a Phone Call to Members of the Judiciary Committee!

You can let them know what you think about a particular nominee. Or, you can ask them to find out certain information during hearings.

### Write a Letter or Make a Phone Call to Your State’s Senators!

Tell them how you want them to vote and justify your position using the background information that you have gathered.

### Consider the Courts when you Vote for the President and your Senators!

Your vote helps determine who will make essential decisions about the federal bench.