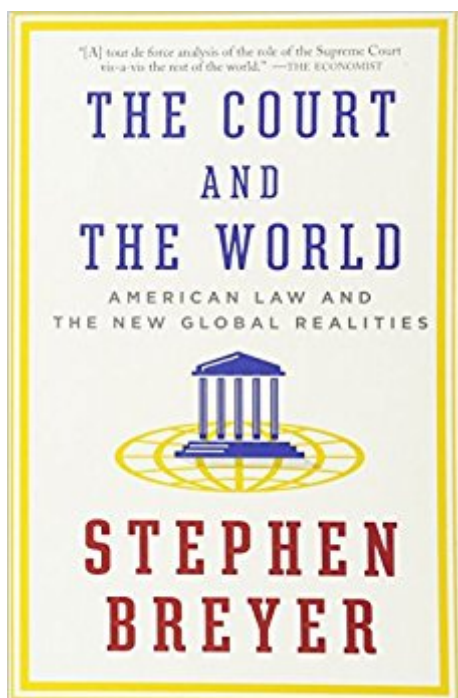


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# The Court And The World: American Law And The New Global Realities



## Synopsis

In this original, far-reaching, and timely book, Justice Stephen Breyer examines the work of the Supreme Court of the United States in an increasingly interconnected world, a world in which all sorts of activity, both public and private "from the conduct of national security policy to the conduct of international trade" obliges the Court to understand and consider circumstances beyond America's borders. Written with unique authority and perspective, *The Court and the World* reveals an emergent reality few Americans observe directly but one that affects the life of every one of us. Here is an invaluable understanding for lawyers and non-lawyers alike.

## Book Information

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## Customer Reviews

"A tour de force analysis of the role of the Supreme Court vis-a-vis the rest of the world . . . the book's main message is inarguable: in a world that is smaller and more tightly interconnected than it has ever been, the Supreme Court cannot stand aloof from the legal universe beyond America's shores. . . . In his characteristically measured, above-the-fray style . . . Mr. Breyer provides in-depth yet lucid accounts of how the court has approached many instances of cross-border justice, from anti-trust lawsuits to child custody battles to purported human rights violations. . . . Readers of all political and ideological persuasions might learn something." • "The Economist" A lucid new book. . . . Playing the judge as enlightened modern technocrat, [Breyer] offers a reasoned elaboration of the mounting costs that judicial isolationism would entail in our increasingly interconnected world. Globalization, he argues, has made engagement with foreign law and

international affairs simply unavoidable. . . . Why not learn from the efforts of others as we try to solve the same basic problems. . . . Democracy has never been a nativist straitjacket. Breyer's book offers a powerful description of the price we would pay for allowing it to become one.

• "John Fabian Witt, *The New York Times*—A serious, insightful work, complete with a concrete, highly detailed analysis of scores of cases decided by his court and by others around the world . . . [Breyer's] new book reflects his international interests but also his view of how his job has changed over two decades on the court.

• "Noah Feldman, *The Washington Post*—There is no better or wiser source on the intersection of American jurisprudence and international law than Justice Stephen Breyer. He offers insights on every page and his attention to both principle and common sense points the way for harmonizing national and global concerns while strengthening law and reason.

• "Martha Minow, Morgan and Helen Chu Dean and Professor, Harvard Law School—The book is insightful, clearly written, well informed, free of legal jargon, and accessible to a lay audience as well as informative to lawyers, judges, and law professors.

• "Judge Richard Posner, *Foreign Affairs*

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This is a phenomenal work, quite readable for a legal treatise, which makes a thorough case for the need of our judiciary to take notice of foreign laws, customs, and practices in today's interconnected world. In addition, however, Justice Breyer illuminates the complex challenge of coming to supreme court decisions that, in addition to following the law, take cognizance of equality, consequences, and fairness. In addition, he convincingly demonstrates that decisions that affect other countries should, to the extent possible, allow our commercial, governmental, and regulatory systems work in concert with those of other countries to promote a common good. This book gave me a profound respect for the author as a thoughtful man of good will, committed the rule of law as essential to the existence of a fair, unbiased, and maintainable government.

I wanted to read Justice Breyer's book for several reasons. I had found his debate appearances with the late Justice Scalia, where they discussed the role of foreign law in construing the Constitution, most interesting. Moreover, talk radio is full of allegations about possible displacement of American law by Sharia law, and I thought Breyer might have some insights on this topic as well. Finally, I had found his two most recent books which I reviewed on to be full of insights and

extremely cogent. This new and quite hefty volume (382 pp. including index) is somewhat different. I don't think this work is aimed so centrally at the general reader as the previous volumes. Breyer here is tackling some quite challenging legal issues which can be complex, especially for the general reader. I mention this because while Breyer's masterful prose is again in evidence, at points for those without legal training the book may prove daunting. So while it is not "light bedtime reading," it is cogent and skillfully written. For me the core of the volume is found in the Postscript (pp. 236-246), where Breyer gets into the key issues of the role of foreign law in the domestic legal system, including constitutional interpretation (the very area where he so challenged Scalia). The preceding several hundred pages are designed to prepare the reader to focus on these key issues. Basically, the general theme is as a result of international integration, American courts are facing an increasing amount of foreign legal issues and concepts as they discharge their responsibilities. This situation gives rise to all manner of issues: limits on presidential power; extent of the treaty power; rights of Guantanamo prisoners; application of American law abroad; the role of international legal comity; and laws such as the Alien Tort Statute which impose liability for foreign actions in American courts. American judges and legislators must be prepared to deal with these new issues. How are treaties, conventions, the UN Charter and international law to be applied? What role does the International Court of Justice play and are its decisions binding upon American courts? These are the very kinds of issues that in part led to the recent British departure from the European Community--and they can be extremely tough. Can judges participating in international law teaching or panels, as well as exchanges of lawyers and law students, use these opportunities to improve judicial understanding of the new complexities of the world's legal systems as they interact? As for the issue of the role and possible dominance of foreign law in American domestic law, Breyer's excellent analysis can be boiled down to a straightforward proposition: "don't fret," some manner of Kantian universal law is not a likely prospect, and the American system can adjust to these new international developments. A very fine introduction to these vitally important issues by the author several of the key Supreme Court cases in this area. That Breyer alerts us to so many crucial aspects bears special commendation for a job well done. You will understand more of what is going on in the world for having read this book--and that is its greatest contribution.

Very interesting - did take some time to read.

Justice Breyer is a scholarly and exceedingly decent man. He doesn't write books well - maybe because of those qualities. This book is more like a law school text for an international law class. A

lawyer should have it in his/her library.

I bought this for my son for Christmas and he loved it.

One of the great legal minds. I read an advance copy of the book. It's fascinating to watch a brilliant thinker in the process of understanding and interpreting the law. The book is eminently readable, unlike so many other books about the court that just drone on. Highly recommended.

Justice Stephen Breyer's new book, "The Court and the World," should be required reading for every candidate running for president, every candidate for an appointment to federal bench, and every American! It's an astounding achievement by a brilliant legal mind. I can remember being a first-year graduate student in political science discussing the disdain with which some viewed death penalty opinions which cited foreign courts and/or laws and practices. Today (some years later!), it's with pleasure that I read Breyer's book. He makes an eloquent argument regarding why the court must be in dialogue with the world for just as America has evolved over the past two-hundred years, so too has the world. Today's challenges - and achievements - necessitate a legal environment that sees the Court has been a critical institution/actor as the United States embarks on actions without precedent to guide us. Overall, Breyer's book is SUPERB. He skillfully avoids turning "The Court and the World" into a legal textbook and instead makes it an enjoyable and informative read for academics and lay readers alike. Highly recommended.

I had to read the chapters twice. I think it is written for a first year law student

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