

AMERICAN CONSTITUTIONALISM
VOLUME I: STRUCTURES OF GOVERNMENT
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Supplementary Material

Chapter 10: The Reagan Era—Judicial Power and Constitutional Authority

Allen v. Wright, 468 U.S. 737 (1984)

Especially after the adoption of busing as a judicial remedy to segregated public schools, many whites fled urban school systems in favor of suburban schools and private, predominantly white primary and secondary schools. In general, private schools are classified as charitable organizations and statutorily exempt from federal taxes. Beginning in 1970, the Internal Revenue Service (IRS) denied tax-exempt status to racially discriminatory schools. The policy shift resulted in extended political and legal disputes over how to enforce this regulation.

In 1976, a nationwide class action suit was initiated in federal district court on behalf of Inez Wright and other parents of black children attending public schools against the secretary of the Treasury and the IRS commissioner. W. Wayne Allen, the founder of Briarcrest Baptist School System that opened in Memphis in 1973, intervened as a party affected by the litigation. The suit asked the court to direct the IRS to adopt a different set of guidelines for enforcing the regulation barring racially discriminatory schools from holding tax-exempt status. They contended that the existence of tax-exempt, racially discriminatory private schools interfered with their affirmative right to attend racially integrated public schools and that by not being sufficient aggressive in identifying such schools, the federal government had established a policy that sustained them. After the lawsuit was filed, the IRS considered adopting new, more stringent guidelines, but the new rules were blocked by Congress. At that point, the district court dismissed the suit, concluding that the parents did not have standing to sue the IRS. The circuit court reversed that decision and reinstated the lawsuit, concluding that this was a rare instance when a third-party suit over the IRS granting of a tax exemption was justified.

In a 5-3 decision, the Court reversed the lower court and denied standing to these plaintiffs. The majority concluded that there was not a sufficiently direct connection between the injury suffered by the plaintiffs and the federal government's policy decisions to sustain judicial inquiry into how the executive branch administers its regulations.

Could a black student denied admission to a private secondary school sue the IRS over its enforcement of the nondiscrimination regulation? Could liberal activists sue the IRS for granting tax-exempt status to a Tea Party organization that the activists believed engaged in excessive political activity? Could Wright have sued the IRS if the agency had refused to monitor the admission policies of tax-exempt schools at all? Is the issue of standing distinct from the merits of the case? If Wright had been able to show that private schools took a substantial percentage of white children out of the public school system, could a suit against the IRS have been sustained? Would Wright have been better positioned to argue that the very existence of private schools violated the right of black children to attend integrated schools and sue to block the granting of tax exemptions to any private schools in the South?

JUSTICE O'CONNOR delivered the opinion of the Court.

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Article III of the Constitution confines the federal courts to adjudicating actual "cases" and "controversies." . . .

The case-or-controversy doctrines state fundamental limits on federal judicial power in our system of government.

The Article III doctrine that requires a litigant to have “standing” to invoke the power of a federal court is perhaps the most important of these doctrines. “In essence the question of standing is whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues.” Standing doctrine embraces several judicially self-imposed limits on the exercise of federal jurisdiction, such as the general prohibition on a litigant’s raising another person’s legal rights, the rule barring adjudication of generalized grievances more appropriately addressed in the representative branches, and the requirement that a plaintiff’s complaint fall within the zone of interests protected by the law invoked. The requirement of standing, however, has a core component derived directly from the Constitution. A plaintiff must allege personal injury fairly traceable to the defendant’s allegedly unlawful conduct and likely to be redressed by the requested relief.

Like the prudential component, the constitutional component of standing doctrine incorporates concepts concededly not susceptible of precise definition. The injury alleged must be, for example, “distinct and palpable,” and not “abstract” or “conjectural” or “hypothetical.” The injury must be “fairly” traceable to the challenged action, and relief from the injury must be “likely” to follow from a favorable decision. These terms cannot be defined so as to make application of the constitutional standing requirement a mechanical exercise.

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Determining standing in a particular case may be facilitated by clarifying principles or even clear rules developed in prior cases. Typically, however, the standing inquiry requires careful judicial examination of a complaint’s allegations to ascertain whether the particular plaintiff is entitled to an adjudication of the particular claims asserted. Is the injury too abstract, or otherwise not appropriate, to be considered judicially cognizable? Is the line of causation between the illegal conduct and injury too attenuated? Is the prospect of obtaining relief from the injury as a result of a favorable ruling too speculative? These questions and any others relevant to the standing inquiry must be answered by reference to the Art. III notion that federal courts may exercise power only “in the last resort, and as a necessity,” and only when adjudication is “consistent with a system of separated powers and [the dispute is one] traditionally thought to be capable of resolution through the judicial process.”

Respondents allege two injuries in their complaint to support their standing to bring this lawsuit. First, they say that they are harmed directly by the mere fact of Government financial aid to discriminatory private schools. Second, they say that the federal tax exemptions to racially discriminatory private schools in their communities impair their ability to have their public schools desegregated.

....

This Court has repeatedly held that an asserted right to have the Government act in accordance with law is not sufficient, standing alone, to confer jurisdiction on a federal court . . . “[Assertion] of a right to a particular kind of Government conduct, which the Government has violated by acting differently, cannot alone satisfy the requirements of Art. III without draining those requirements of meaning.” *Valley Forge Christian College v. Americans United* (1982)

Neither do they have standing to litigate their claims based on the stigmatizing injury often caused by racial discrimination. There can be no doubt that this sort of noneconomic injury is one of the most serious consequences of discriminatory government action and is sufficient in some circumstances to support standing. Our cases make clear, however, that such injury accords a basis for standing only to “those persons who are personally denied equal treatment” by the challenged discriminatory conduct.

....

The consequences of recognizing respondents’ standing on the basis of their first claim of injury illustrate why our cases plainly hold that such injury is not judicially cognizable. If the abstract stigmatic injury were cognizable, standing would extend nationwide to all members of the particular racial groups

against which the Government was alleged to be discriminating by its grant of a tax exemption to a racially discriminatory school, regardless of the location of that school A black person in Hawaii could challenge the grant of a tax exemption to a racially discriminatory school in Maine. Recognition of standing in such circumstances would transform the federal courts into “no more than a vehicle for the vindication of the value interests of concerned bystanders.” Constitutional limits on the role of the federal courts preclude such a transformation.

....

The illegal conduct challenged by respondents is the IRS’s grant of tax exemptions to some racially discriminatory schools. The line of causation between that conduct and desegregation of respondents’ schools is attenuated at best. From the perspective of the IRS, the injury to respondents is highly indirect and “results from the independent action of some third party not before the court.” . . .

The diminished ability of respondents’ children to receive a desegregated education would be fairly traceable to unlawful IRS grants of tax exemptions only if there were enough racially discriminatory private schools receiving tax exemptions in respondents’ communities for withdrawal of those exemptions to make an appreciable difference in public school integration. Respondents have made no such allegation

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[The principle that the government has wide latitude in conducting its own internal affairs], grounded as it is in the idea of separation of powers, counsels against recognizing standing in a case brought, not to enforce specific legal obligations whose violation works a direct harm, but to seek a restructuring of the apparatus established by the Executive Branch to fulfill its legal duties. The Constitution, after all, assigns to the Executive Branch, and not to the Judicial Branch, the duty to “take Care that the Laws be faithfully executed.” We could not recognize respondents’ standing in this case without running afoul of that structural principle.

....

“The necessity that the plaintiff who seeks to invoke judicial power stand to profit in some personal interest remains an Art. III requirement.” Respondents have not met this fundamental requirement

Reversed.

JUSTICE MARSHALL took no part in the decision of these cases.

JUSTICE BRENNAN, dissenting.

....

In these cases, the respondents have alleged at least one type of injury that satisfies the constitutional requirement of “distinct and palpable injury.” In particular, they claim that the IRS’s grant of tax-exempt status to racially discriminatory private schools directly injures their children’s opportunity and ability to receive a desegregated education

. . . . [W]e have consistently recognized throughout the last 30 years that the deprivation of a child’s right to receive an education in a desegregated school is a harm of special significance; surely, it satisfies any constitutional requirement of injury in fact

....

. . . . Common sense alone would recognize that the elimination of tax-exempt status for racially discriminatory private schools would serve to lessen the impact that those institutions have in defeating efforts to desegregate the public schools.

....

More than one commentator has noted that the causation component of the Court's standing inquiry is no more than a poor disguise for the Court's view of the merits of the underlying claims. The Court today does nothing to avoid that criticism. What is most disturbing about today's decision, therefore, is not the standing analysis applied, but the indifference evidenced by the Court to the detrimental effects that racially segregated schools, supported by tax-exempt status from the Federal Government, have on the respondents' attempt to obtain an education in a racially integrated school system. I cannot join such indifference, and would give the respondents a chance to prove their case on the merits.

JUSTICE STEVENS, with whom JUSTICE BLACKMUN joins, dissenting.

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In final analysis, the wrong respondents allege that the Government has committed is to subsidize the exodus of white children from schools that would otherwise be racially integrated. The critical question in these cases, therefore, is whether respondents have alleged that the Government has created that kind of subsidy.

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... If the granting of preferential tax treatment would "encourage" private segregated schools to conduct their "charitable" activities, it must follow that the withdrawal of the treatment would "discourage" them, and hence promote the process of desegregation.

....
... [W]ithout tax-exempt status, private schools will either not be competitive in terms of cost, or have to change their admissions policies, hence reducing their competitiveness for parents seeking "a racially segregated alternative" to public schools, which is what respondents have alleged many white parents in desegregating school districts seek

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Thus, the "fundamental aspect of standing" is that it focuses primarily on the party seeking to get his complaint before the federal court rather than "on the issues he wishes to have adjudicated." The strength of the plaintiff's interest in the outcome has nothing to do with whether the relief it seeks would intrude upon the prerogatives of other branches of government; the possibility that the relief might be inappropriate does not lessen the plaintiff's stake in obtaining that relief. If a plaintiff presents a nonjusticiable issue, or seeks relief that a court may not award, then its complaint should be dismissed for those reasons, and not because the plaintiff lacks a stake in obtaining that relief and hence has no standing

[T]he Court could be saying that it will not treat as legally cognizable injuries that stem from an administrative decision concerning how enforcement resources will be allocated. This surely is an important point The Executive requires latitude to decide how best to enforce the law, and in general the Court may well be correct that the exercise of that discretion, especially in the tax context, is unchallengeable.

However, . . . this principle does not apply when suit is brought "to enforce specific legal obligations whose violation works a direct harm." . . .

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... Deciding whether the Treasury has violated a specific legal limitation on its enforcement discretion does not intrude upon the prerogatives of the Executive, for in so deciding we are merely saying "what the law is." . . .

In short, I would deal with the question of the legal limitations on the IRS's enforcement discretion on its merits, rather than by making the untenable assumption that the granting of preferential tax treatment to segregated schools does not make those schools more attractive to white students and hence does not inhibit the process of desegregation. I respectfully dissent.