



The Modes of Constitutional Analysis: Structuralism (Part 7)

January 13, 2022

This Legal Sidebar Post is the seventh in a nine-part series that discusses certain “methods” or “modes” of analysis that the Supreme Court has employed to determine the meaning of a provision within the Constitution. (For additional background on this topic and citations to relevant sources, please see CRS Report R45129, *Modes of Constitutional Interpretation*.)

One of the most common modes of constitutional interpretation is based on the Constitution’s structure. Drawing inferences from the Constitution’s design gives rise to some of the most important relationships the Constitution establishes—the relationships among the three branches of the federal government (commonly called *separation of powers* or *checks and balances*); the relationship between the federal and state governments (known as *federalism*); and the relationship between the government and the people. Two basic approaches seek to make sense of these relationships.

The first, known as *formalism*, posits that the Constitution sets forth all the ways in which federal power may be shared, allocated, or distributed. This approach focuses on the structural divisions in the Constitution with the idea that close adherence to these rules is required to achieve the preservation of liberty. An example of the use of this form of structuralism as a mode of interpretation is found in *Immigration and Naturalization Service v. Chadha*. In that case, the Court held that one house of Congress could not by resolution unilaterally curtail the executive branch’s statutory authority to allow a deportable alien to remain in the United States. The Court examined the Constitution’s structure and noted that, under the Bicameralism and Presentment Clauses in Article I, Sections 1 and 7, laws with subject matter that is “legislative in character or effect” require passage by a majority in both houses and presentment to the President for his signature or veto. The Court wrote: “It emerges clearly that the prescription for legislative action in [Article I, Sections 1 and 7 of the Constitution] represents the Framers’ decision that the legislative power of the Federal Government be exercised in accord with a single, finely wrought and exhaustively considered, procedure.” Viewing the exercise of the one-house veto in *Chadha* to be of a legislative nature, the Court concluded that the structural relationships the Constitution established between the legislative and executive branches forbid the “one-House legislative veto.” As demonstrated in *Chadha*, a formalist approach to separation-of-powers questions rejects not only looking to post-ratification historical practices as a guide for determining constitutional meaning, but also eschews balancing tests that weigh the degree of interference with one branch’s powers.

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Constitutional Analysis

Ying Liu



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