Understanding Politics — Chapter 12 Student Practice Pack

Governing and Constraining Power: Executives, Legislatures and Courts

Version 1.0 · October 2026 · Oxter Press

About this pack

This pack follows the practice-chapter template: an accountability-mapping exercise and a case analysis of a landmark court judgment, freely available online. Answers are in the Instructor Pack, available to teaching staff from www.oxterpress.com. Student Pack, Chapter 12, version 1.0 (October 2026). © Oxter Press. CC BY-NC 4.0.

Chapter at a glance

Institution	Main function	Classic statement	Key debate
Executive	Direction and implementation	Neustadt (1960): power to persuade	Formal versus practical power
Legislature	Law-making, representation, scrutiny	Polsby (1975): transformative versus arena	Party discipline versus independence
Courts	Adjudication and constitutional review	Hamilton, *Federalist* 78: ‘merely judgment’	Waldron (2006) against judicial review
Federal and devolved units	Divided territorial authority	Stepan (1999): coming-together versus holding-together	Autonomy versus coordination
Bureaucracy	Implementing policy	Lipsky (1980): street-level discretion	Delegation and oversight

Exercise: map an accountability chain

Choose one public service in a country you know, such as a welfare benefit, school inspection or planning permission. Map who answers to whom.

Link	Who acts?	Who checks them?	How? (vertical, horizontal, judicial)	Weakest point
Policy set				
Rules made				

Link	Who acts?	Who checks them?	How? (vertical, horizontal, judicial)	Weakest point
Decisions on individual cases				
Complaints and appeals				
Audit and scrutiny				

Then answer in 300 words: (1) Is oversight mainly police patrol or fire alarm (McCubbins and Schwartz, 1984)? (2) Where does street-level discretion enter? (3) Which single reform would most improve accountability, and what would it cost?

Case analysis: *Grootboom* (South Africa, 2000)

A community evicted from informal settlements sought shelter from the state. South Africa's Constitutional Court held that the state's housing programme was unreasonable because it made no provision for people in desperate need, but it did not prescribe how the government should fix this. The judgment is available free from SAFLII.

1. What did the court decide, and what did it leave to government?
2. Is this judicial overreach, judicial restraint, or neither? Use Waldron and Hamilton.
3. Implementation after the judgment was slow. What does that show about courts' limits (Rosenberg, 1991)?
4. Design one institutional mechanism that would have made the judgment more effective without transferring policy choice to the court.

Self-test

1. Neustadt argued that presidential power is above all:
    - A. The power to veto
    - B. The power to command
    - C. Constitutional authority
    - D. The power to persuade
2. Polsby distinguished:
    - A. Upper and lower chambers
    - B. Transformative and arena legislatures
    - C. Elected and appointed members
    - D. Federal and unitary legislatures
3. Bagehot described the British constitution's 'efficient secret' as:
    - A. The monarchy
    - B. Judicial review
    - C. The near-complete fusion of executive and legislative powers
    - D. Federalism

4. Madison defended separated powers on the ground that:
    - A. Ambition must be made to counteract ambition
    - B. Judges are wise
    - C. Parties are dangerous
    - D. The people are sovereign
5. Hamilton called the judiciary the least dangerous branch because it has:
    - A. No budget
    - B. Life tenure
    - C. Few members
    - D. Neither force nor will, but merely judgment
6. Waldron's case against judicial review holds that:
    - A. Courts are corrupt
    - B. Legislatures should settle rights disagreements where democratic institutions work well
    - C. Rights do not exist
    - D. Judges should be elected
7. Ginsburg's 'insurance' theory says judicial review is created by:
    - A. Parties uncertain of holding power in future
    - B. Foreign donors
    - C. Judges themselves
    - D. Referendums
8. Hirschl's 'hegemonic preservation' thesis says:
    - A. Courts protect the poor
    - B. Courts are neutral
    - C. Threatened elites transfer contested questions to courts
    - D. Courts follow public opinion
9. Stepan's 'holding-together' federations are created to:
    - A. Unite sovereign states
    - B. Keep a diverse state united
    - C. Abolish regions
    - D. Copy the United States
10. Horizontal accountability refers to:
    - A. Elections
    - B. Media scrutiny
    - C. Party discipline
    - D. Checks among state institutions
11. Lipsky's street-level bureaucrats are:
    - A. Frontline officials whose discretion effectively makes policy
    - B. Senior civil servants
    - C. Local politicians
    - D. Police only
12. Fire-alarm oversight relies on:
    - A. Regular inspections

- B. Courts
- C. Citizens and groups reporting problems
- D. Auditors only

13. Ackerman's 'supermajoritarian escalator' means that:
    - A. Emergencies are banned
    - B. Courts decide emergencies
    - C. Presidents rule by decree
    - D. Each renewal of emergency powers needs a larger majority
14. Rosenberg argued that courts:
    - A. Always transform society
    - B. Rarely produce significant social change alone
    - C. Should not exist
    - D. Are more democratic than legislatures
15. In *Grootboom*, the Constitutional Court:
    - A. Required a reasonable housing programme including people in desperate need, without dictating its details
    - B. Ordered houses for every applicant
    - C. Dismissed the case
    - D. Took over housing policy

Short answers and essays

Short answers: (1) Formal versus practical executive power. (2) Transformative versus arena legislatures. (3) Fusion versus separation of powers. (4) The case for and against judicial review. (5) Why politicians empower courts. (6) Coming-together versus holding-together federalism. (7) Horizontal versus vertical accountability. (8) Street-level discretion. (9) Police-patrol versus fire-alarm oversight. (10) Limits on emergency powers.

Essays: (1) Should unelected judges strike down legislation? (2) Is parliamentary government executive dictatorship? (3) Does federalism protect minorities or entrench them? (4) Who holds the bureaucracy to account? (5) Can courts enforce social rights? (6) How should democracies limit emergency powers?

Glossary

Term	Definition
Judicial review	Courts' power to invalidate acts conflicting with a constitution
Separation of powers	Distinct institutions with checks on each other
Fusion of powers	Executive drawn from and dependent on the legislature
Federalism	Constitutionally protected division of territorial authority
Horizontal accountability	Checks among state institutions

Term	Definition
Street-level bureaucracy	Frontline discretion that shapes policy
Delegation	Transfer of authority to agents with oversight
Emergency powers	Temporary expansion of executive authority