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Why the court is 'supreme'

This is the fourth of several articles written by state judges and legal experts commemorating Law Day (May 1) in Hawai'i.

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"Eh, you nevah win — you wen hold back. We supposed to go same time!"

"Dat's one technicality. My scissors cut your paper!"

"Hey, Ref! That player traveled!"

"Sit down, Coach, that's just a technicality. He only traveled a little and, besides, he made a great basket!"

The Hawai'i Constitution established the state Supreme Court as our highest court. One of the Supreme Court's most important responsibilities is to decide cases that raise questions about the Constitution itself and how it is applied.

Exercising this responsibility is known as judicial review and enables the court to invalidate state laws or acts of government officials that conflict with our Constitution. As the final authority on constitutional issues, the court's decisions can be changed only by a later Hawai'i Supreme Court decision, by a constitutional amendment, or by the U.S. Supreme Court.

When the language of the Constitution is clear and unambiguous, the court is duty-bound to construe the words as written. Where the language may be ambiguous, the meaning must be interpreted by the court in a principled way. The court studies the history and structure of the words as well as the underlying values of the document. The court must take care not to go beyond the intent of the people who ratified the Constitution and it is not at liberty to amend a constitutional provision by judicial decision.

Sometimes, a Court's decision is not about whether the law itself is "right" or "wrong" but whether or not the government followed the rules that the people decided upon and included in our Constitution. In those cases, the government can simply try again to reach their goal by following the rules of the Constitution.

Courts are often criticized for strictly adhering to the language of the Constitution. This sometimes happens when the court's decision upholds a constitutional right protecting a group or a philosophy viewed by the majority as somehow undeserving of that protection. This is also true when the reason for the decision is difficult to explain without a full understanding of the context in which it was rendered.

Our Constitution is the supreme written will of the people of our state.

It overrides statutes, local ordinances and administrative regulations, and is subject only to the limitations set forth in valid federal statutes and in the federal Constitution. Any state constitution is the mandate of a sovereign people to its government. Can the rules written into our Constitution ever be considered "mere technicalities"? Can the hopes and ideals of our people, such as our hope for equality and our ideal of personal privacy, ever be considered "mere technicalities"?

Government officials may not always appreciate Supreme Court decisions concluding that constitutional bounds have been overstepped, but the court has a duty to do so and it must not shirk from that duty if the people's rights are to be preserved.

The Supreme Court has a duty to uphold the Constitution's protection of those rights even if the results of a particular decision may be unpopular with the majority of the people. In our wonderfully diverse state, it would be well to remember that, in our not-so-distant past, "minorities" included women, children and certain racial groups.

Circumventing what is required by the Constitution is an erosion of our basic rights. Nothing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the charter of its own existence — the Constitution.
