nies federal courts the power 'to decide questions that cannot affect the rights of litigants in the case before them,' . . . and confines them to resolving 'real and substantial controvers[ies] admitting of specific relief through a decree of a conclusive character, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts.' This case-or-controversy requirement subsists through all stages of federal judicial proceedings, trial and appellate. To sustain our jurisdiction in the present case, it is not enough that a dispute was very much alive when suit was filed, or when review was obtained in the Court of Appeals. . . . The parties must continue to have a 'personal stake in the outcome' of the lawsuit." [554] Because, with the advent of declaratory judgments, it is open to the federal courts to "declare the rights and other legal relations" of the parties with *res judicata* effect,[555] the question in cases alleged to be moot now seems largely if not exclusively to be decided in terms of whether an actual controversy continues to exist between the parties rather than in terms of any additional older concepts.[556] So long as concrete, adverse legal interests between the parties continue, a case is not made moot by intervening actions that cast doubt on the practical enforceability of a final judicial order.[557]

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[554] Lewis v. Continental Bank Corp., 494 U.S. 472, 477–78 (1990) (internal citations omitted). The Court's emphasis upon mootness as a constitutional limitation mandated by Article III is long stated in the cases. *E.g.*, Liner v. Jafco, 375 U.S. 301, 306 n.3 (1964); DeFunis v. Odegaard, 416 U.S. 312, 316 (1974); Sibron v. New York, 392 U.S. 40, 57 (1968). *See* Honig v. Doe, 484 U.S. 305, 317 (1988), and id. at 332 (Justice Scalia dissenting). *But compare* Franks v. Bowman Transp. Co., 424 U.S. 747, 756 n.8 (1976) (referring to mootness as presenting policy rather than constitutional considerations). If this foundation exists, it is hard to explain the exceptions, which partake of practical reasoning. In any event, Chief Justice Rehnquist has argued that the mootness doctrine is not constitutionally based, or not sufficiently based only on Article III, so that the Court should not dismiss cases that have become moot after the Court has taken them for review. Id. at 329 (concurring). Consider the impact of Cardinal Chemical Co. v. Morton Int'l, Inc., 508 U.S. 83 (1993).

[555] *But see* Steffel v. Thompson, 415 U.S. 452, 470–72 (1974); id. at 477 (Justice White concurring), 482 n.3 (Justice Rehnquist concurring) (on *res judicata* effect in state court in subsequent prosecution). In any event, the statute authorizes the federal court to grant "[f]urther necessary or proper relief," which could include enjoining state prosecutions.

[556] Award of process and execution are no longer essential to the concept of judicial power. Aetna Life Ins. Co. v. Haworth, 300 U.S. 227 (1937).

[557] Chafin v. Chafin, 568 U.S. ___, No. 11–1347, slip op. (2013) (appeal of district court order returning custody of a child to her mother in Scotland not made moot by physical return of child to Scotland and subsequent ruling of Scottish court in favor of the mother continuing to have custody).