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**Resolved: The Justices of the Supreme Court of the United States Ought to be Term-Limited**

**Definitions**

**Ought: Used to express duty or moral obligation** [**Dictionary.com**](https://www.dictionary.com/browse/ought)

**Term-Limits: A specified number of terms that a person in office is allowed to serve [**[**https://www.merriam-webster.com/dictionary/term%20limit**](https://www.merriam-webster.com/dictionary/term%20limit)**]**

**Observation: To clarify the resolution, there are many models of term-limits that currently exist, and all of them would consist of staggering 18 year term-limits, meaning that each president would be able to nominate at least 2 justices to ensure fairness. There would be no re-election, and retired justices would be free to serve on lower courts if they wished.**

**Khanna 22**

[Rep. Khanna, 11-1-2022, "H.R.5140," Congres.gov, <https://www.congress.gov/bill/117th-congress/house-bill/5140>]

**This bill establishes staggered, 18-year terms for Supreme Court Justices and limits the Senate's advice and consent authority in relation to the appointment of Justices. Specifically, the bill requires the President to appoint a Supreme Court Justice every two years.** If the appointment of a Justice would result in more than nine Justices on the Court, then the nine most junior Justices shall make up the panel of Justices exercising judicial power in cases and controversies. **Further, any Justice who has served a total of 18 years is deemed retired from regular service and may continue to serve as a Senior Justice. Senior Justices may continue to perform judicial duties assigned to them by the Chief Justice. However, no Justice appointed before the date of enactment shall be counted towards such panel, nor shall they be required to retire from regular active service. In the event of a vacancy on the Court, the Chief Justice must assign the Justice most recently designated as a Senior Justice to serve on the Court until the appointment of a new Justice. Additionally, the Senate's advice and consent authority is waived if the Senate does not act within 120 days of a Justice's nomination.**

**Framework**

**The value is government legitimacy, and the value criterion is representing the people. Pref because:**

**The will of the people gives democracies their right to rule.**

**OHCHR** [People Across, xx-xx-xxxx, "About democracy and human rights," OHCHR, <https://www.ohchr.org/en/about-democracy-and-human-rights>]

**Democracy is a universally recognized ideal based on common values shared by people across the world, irrespective of cultural, political, social and economic differences. As recognized in the** [**Vienna Declaration and Programme of Action**](https://www.ohchr.org/en/instruments-mechanisms/instruments/vienna-declaration-and-programme-action)**, democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives.** Democracy, development, rule of law and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing. **Democracy aims to: preserve and promote the dignity and fundamental rights of the individual; achieve social justice; foster the economic and social development of the community;** strengthen the cohesion of society; enhance national tranquility; and create a climate that is favourable for international peace. **Democracy as a form of government is a universal benchmark for human rights protection**; it provides an environment for the protection and effective realization of human rights. Today, after a period of increased democratization around the world, many democracies appear to be backsliding. Some Governments seem to be deliberately weakening independent checks on their powers, suffocating criticism, dismantling democratic oversight and ensuring their long-term rule, with negative impact on people’s rights. For several years, the UN General Assembly and the former Commission on Human Rights endeavoured to draw on international human rights instruments to promote a common understanding of the principles and values of democracy. In 2002, the Commission [declared in resolution 2002/46](https://ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-2002-46.doc) that essential elements of democracy include: Respect for human rights and fundamental freedoms, including freedom of opinion and expression, and freedom of association; Access to power and its exercise in accordance with the rule of law; **The holding of periodic free and fair elections by universal suffrage and by secret ballot as the expression of the will of the people; A pluralistic system of political parties and organizations;** The separation of powers; The independence of the judiciary; Transparency and accountability in public administration; Free, independent and pluralistic media.

**Government legitimacy requires allowing for the representation of citizens.**

**Peter 08,** [Fabienne Peter Episteme: A Journal of Social Epistemology, Volume 5, Issue 1, 2008, pp. 33-55 (Article) Published by Edinburgh University Press DOI: [https://doi.org/10.1353/epi.0.0024//sjvc](https://doi.org/10.1353/epi.0.0024/sjvc) //Scopa]

Proceduralists reject the idea that democratic procedures only have instrumental value. Some proceduralist conceptions of legitimacy are, like the instrumentalist conceptions, also monistic. What is commonly called “pure proceduralism” is the view that **only the dimension of political equality, or political fairness, is relevant for democratic legitimacy. According to conceptions of this kind, outcomes are legitimate as long as they are the result of an appropriately constrained process of democratic decision-making.** This places all normative weight on procedural values. While I shall defend a pure proceduralist conception in this paper, note that most proceduralist conceptions of democratic legitimacy are not monistic, but add conditions that refer to the quality of outcomes to those that apply to democratic procedures. Elsewhere, I have called such conceptions of legitimacy 4“rationalproceduralist”(Peter2007a,b). Rational proceduralist conceptions place less value on procedural fairness than pure proceduralist ones, as they incorporate a second category of conditions that need to be satisfied for democratic legitimacy to obtain. Conditions that fall in this second category have their source in properties of the quality of outcomes. Proceduralists present different arguments against instrumentalism and for why it matters that people can participate in democratic decision-making under some conditions of political fairness. Here is why I think that we ought to reject instrumentalism. **First, I take it as a premise that the interests and perspectives of the members of the democratic constituency inevitably diverge and that they have different views – with good reasons – about which social state is best.** This premise is what Rawls has called “the fact of reasonable pluralism” (1993, 63ff.), and **it entails an irreducible pluralism of reasonable comprehensive conceptions of the good.** Instrumentalists probably do not want to deny this fact. Instead, they will try to brush it aside, hoping that reasonable pluralism will not be very deep on important matters and that there is sufficient congruence in people’s conceptions of the good to identify some ideal outcome. **But aside from the question of how deep this pluralism is, there is the issue of what it means to respect it. I want to claim that respect of reasonable value pluralism implies that people’s possibility to participate in the evaluation of alternative social states is constitutive of democratic legitimacy.** Here instrumentalists will not follow. Sen’s distinction between well-being and agency is helpful to defend this view (Sen 1985). Sen argues that even if the purpose is to evaluate the goodness of outcomes, it is not sufficient to take into account individuals’ well-being–however interpreted. **For people should not simply be seen as patients, who do or do not have well-being, but as agents interested in the autonomous formulation and pursuit of their goals. Their well-being may be one of these goals, but how they conceive of well-being is again a result of their agency, and they may pursue goals other than their well-being. To respect value pluralism is thus to respect individual agency. But to respect individual agency is to ensure that individuals have the possibility to participate in the evaluation of alternative social arrangements**. If individuals are not just seen as passive carriers of well- being, but as causal forces in the forming of individual and collective goals, there is need for inclusive procedures which allow individuals with differing conceptions of the good to participate in the collective evaluation and choice of their social arrangements. **We thus have an argument for why respect of reasonable value pluralism entails a demand for inclusive, fair procedures which enable individual agents to act together, or, in other words, for why respect of value pluralism entails that democratic procedures form an irreducible component of legitimacy.**

**This essentially means that a government is based on the will of the people, and their opinions must be represented for a democratic government to be legitimate.**

**Contention 1: Lack of Credibility**

**The nomination process for justices is broken — term limits solve.**

**Elliot 18** [E. Donald Elliott, 10-15-2018, "Fixing a broken process for nominating US Supreme Court justices," Conversation, <https://theconversation.com/fixing-a-broken-process-for-nominating-us-supreme-court-justices-104629>]

**President Donald Trump has nominated two Supreme Court justices during only 19 months in office. Senate Majority Leader** [**Mitch McConnell stated**](https://www.usatoday.com/story/news/politics/onpolitics/2018/10/08/supreme-court-mitch-mcconnell-2020/1563328002/) **after** [**Brett Kavanaugh’s confirmation**](https://www.npr.org/2018/10/08/654713560/how-is-kavanaugh-likely-to-rule-on-critical-issues-heres-a-look-at-his-record) **that Trump might have the opportunity to make a third nomination during one term in office. By the end of a possible second Trump term, he could choose a majority of the Supreme Court. While the Supreme Court is not a representative body, justices on that court have strong, well-developed and significantly different judicial philosophies and approaches to constitutional and statutory interpretation. Presidents openly admit that they make their nominations significantly based on these factors. Under the present system for nominating Supreme Court justices, voters in some elections have two or three times more influence over Supreme Court appointments than those in others. This is anomalous and unfair because voters in one election usually have the same opportunity to elect government officers as those in another. But because a congressional statute fixes the size of the court at nine, some presidents will have the opportunity to nominate more Supreme Court justices than others, based on the happenstance of deaths or resignations.** We think this is backwards: Each president should get an equal number of appointments per elected term and the size of the court should fluctuate over time as vacancies occur. Fixing this phenomenon does not require a constitutional amendment. We are [legal scholars](https://law.yale.edu/e-donald-elliott) who have [written across](https://global.oup.com/academic/product/politics-and-capital-9780190847029?cc=us&lang=en&) a broad swath of areas including constitutional law. **We believe Congress could pass a law providing that a president gets two Supreme Court appointments per four-year term in office. The** [**Constitution does not dictate the size**](https://www.bostonglobe.com/opinion/2016/02/22/need-for-nine-supreme-court/7SnAzJWXMveAxlTzOsDWzM/story.html) **of the Supreme Court; Congress does. This new system would mean that the number of nominations a president gets would no longer fluctuate depending upon the vagaries of deaths and vacancies on the bench.** Even after states ratified [the 22nd Amendment](https://daily.jstor.org/how-fdrs-presidency-inspired-term-limits/) to limit U.S. presidents to two terms in 1951, some presidents have had more influence on the court than others. From 1952 through 1992, we calculated that on average presidents nominated [two Supreme Court justices](http://www.uscourts.gov/sites/default/files/apptsbypres.pdf) per four-year term who were successfully confirmed. From 1992 to 2016, that dropped to only one per term. The court typically includes justices nominated by four or five different presidents, and confirmed by six or seven different Senates so that it reflects the political values of the country over a long period of time. In addition, most of the time, the court makes decisions based on constitutional, statutory and regulatory texts, historical sources and precedents reflecting an accumulated wisdom of the law over an even longer period of time. The current system is no longer working as intended, perhaps because justices are being appointed at a younger age yet life expectancy is increasing. **Consequently, some presidents can exercise vastly disproportionate influence over Supreme Court appointments for decades after their terms of office have expired. The timing of when presidents get to nominate Supreme Court justices depends on when a justice dies or decides to retire.** A congressional statute currently fixes the number of justices at nine. Congress could change that because under the Constitution, Congress regulates the size of the court. From 1791 until 1807, the Supreme Court consisted of only six justices. A seventh was added in 1807, an eighth and ninth were added in 1837, and a 10th in 1866. Then in 1869, Congress passed a statute reducing the number [back to the current nine](https://www.nytimes.com/2007/07/26/opinion/26smith.html). At that time, a 50-year-old male nominated to the Supreme Court had a life expectancy of [only 71 years](https://www.infoplease.com/us/mortality/life-expectancy-age-1850-2011). Today, justices often serve well into their 80s and [life expectancy](https://www.ssa.gov/oact/STATS/table4c6.html) for a 50-year-old male is now 80, and for a 50-year-old female is 83.

**This kills societal representation with unbalanced ideologies in the court — majority of people were pro-abortion and pro-gun safety.**

**Taylor 23** [William W., 1-25-2023, "How The Supreme Court Is Destroying Its Own Legitimacy — AFJ," AFJ, <https://www.afj.org/article/how-the-supreme-court-is-destroying-its-own-legitimacy/>]

When the explanations for their votes appear to be shallow or disingenuous, the skepticism mounts further. **The majority’s explanation in** [***Dobbs v Jackson Women’s Health Organization***](https://www.supremecourt.gov/opinions/21pdf/19-1392_6j37.pdf)**for overruling *Roe v Wade* was that the Constitution did not contain a right to abortion and no such right was recognized at the time of the Fourteenth Amendment. This reasoning is shallow by any standard. By that rationale, there would be no right to obtain contraceptives, to marry a person of another race or of the same gender, or to the privacy of sexual conduct between adults. The dissenters wrote that the only reason the majority overruled *Roe* is because they have always despised it and went on to point out that the reason women did not claim a right to abortion in 1868 was that they had no rights at all.** The dissenters got it right, but to those who oppose abortion, including Justice Alito’s dinner companions, whether the reasoning was sound or not is entirely irrelevant. **Similarly, in** [***New York State Rifle and Pistol Assn v. Bruen***](https://www.supremecourt.gov/opinions/21pdf/20-843_7j80.pdf)**, the Court twisted the text of the Second Amendment and misrepresented the history of firearm regulations in England, the colonies, and this country to justify invalidating virtually all state regulation of gun possession*.* The decision entirely ignored the harm to human life that it will cause, as well as the relevant history of firearms regulation and outright prohibition, but it was a victory for conservatives as well as for the gun lobby, which had donated multiple millions to the cause**. None of them complains about hypocrisy. This term in [*Moore v Harper*](https://www.scotusblog.com/case-files/cases/moore-v-harper-2/)*,* the Court is considering the bizarre notion that state legislatures are uncontrollable by state courts in deciding the manner of elections. It could not arrive at such a conclusion without some creative reinterpretations of the nation’s history. Even if the Court does not go so far as conservatives want, the fact that it has decided to hear the case at all is encouraging to those opposed to free and fair elections. The people who deny that President Biden won the 2020 election are salivating over the prospect of state legislatures having the final say on who wins and who loses the next one.

**Missrepresentation kills court credibility and accountability.**

**Taylor 23** [William W., 1-25-2023, "How The Supreme Court Is Destroying Its Own Legitimacy — AFJ," AFJ, <https://www.afj.org/article/how-the-supreme-court-is-destroying-its-own-legitimacy/>]

**Justices of the Supreme Court have repeatedly claimed that the decisions about what cases to decide and how to decide them are not affected by politics.** Justice John Roberts said in his confirmation hearing that he is like an umpire, not a batter. Justice Neil Gorsuch said that justices are not like “politicians with robes.” Shortly after her confirmation, Justice Amy Coney Barrett told an audience that her goal was “to convince you that this Court is not comprised of a bunch of partisan hacks.” **The justices are not convincing the American people. Favorable ratings of the Court have declined dramatically, according to numerous polls. This fall,** [**a Gallup poll found**](https://news.gallup.com/poll/402044/supreme-court-trust-job-approval-historical-lows.aspx) **that 58% of Americans “disapprove” of the job the Court is doing, which aligns with the 60%** [**who disapproved**](https://www.monmouth.edu/polling-institute/reports/monmouthpoll_us_062822/) **of overruling *Roe.* A substantial majority have lost faith in the Court’s vaunted impartiality and believe it is too affected by “politics.”** [**A Quinnipiac poll**](https://poll.qu.edu/poll-release?releaseid=3846) **conducted after the *Dobbs* leak in May of last year found that 63% of Americans believe the Supreme Court is mainly motivated by politics. A** [**Yahoo poll**](https://news.yahoo.com/poll-confidence-in-supreme-court-has-collapsed-since-conservatives-took-control-122402500.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAFFYTKvh0yfM914PGgBHBXL2rGW4cBqh04ZzNEVvD_9d1D6Ssk5gMVxLty-MNIqEIZRi7nK9j_5pNjFmxmUYBqwg1IJAo5EvgymjFJ80BqxNFXjPa6nQBqvaP4JXl8tk1Inmq7P2tPhE7FfOawBqdXzLA4IOYsbtV8dIw93yFtbc) **around the same time found that 74% believe the Court is “too politicized.”** The Court’s wounds are entirely self-inflicted. It has a far-right agenda and the scholarship informing its decisions is often questionable. Worse, new details have come to light of relationships some justices have had with wealthy ideological soulmates, including those with interest in cases before the Court. The Court’s credibility and the public’s acceptance of its decisions depends upon trust that it is not subject to outside influence. While lobbying may be common and acceptable in the legislative and executive branches, it is not — nor ought not to be — conceivable in our courts. In November of last year, [the New York Times reported](https://www.nytimes.com/2022/11/19/us/supreme-court-leak-abortion-roe-wade.html) that a former antiabortion activist, Rev. Rob Schenck, learned of the Court’s 2014 decision in *Burwell v Hobby Lobby* and its author (Justice Samuel Alito) days before it was publicly announced. Rev. Schenck more recently [repeated his account](https://www.npr.org/2022/12/08/1141546218/supreme-court-leaks-reverend-rob-schenk-dobbs-hobby-lobby) of the leak before the House Judiciary Committee and added some details. At the time of the *Hobby Lobby* decision, he was the leader of a Christian ministry called Faith and Action. He recruited wealthy Christian couples as “stealth missionaries” to befriend Supreme Court justices and lobby them on issues like gun rights and abortion — an effort he called “Operation Higher Court.” Schenck says that one of those couples, Gayle and Don Wright (now deceased) had a dinner with Justice Alito while *Hobby Lobby* was pending, after which Gayle relayed back that Justice Alito was writing the opinion and that Schenck would be happy with it. Justice Alito and Ms. Wright have both denied the leak, but no one has denied the efforts by Schenck and his nonprofit to directly lobby certain justices on contraception and abortion issues. Indeed, the Wrights socialized with Justices Alito, Scalia, and Thomas and happily occupied guest seats for arguments provided to them by “Nino and Sam” (Scalia and Alito). Gayle Wright sent Schenck a message after the decision saying, “I sent your email about [the] [H]obby lobby case to Sam [Alito]… He sent me an email back saying he appreciated your comments very much. How about that?” “How about that,” indeed. Supreme Court justices have maintained and even encouraged relationships with persons deeply interested in their decisions and who share their political views. The relationships become so familiar that they refer to the justices by their first names, “Nino” and “Sam.” Schenck’s level of access was undeniable. He arranged for the president of Hobby Lobby to attend a Court Christmas party in hopes of discussing his views with the justices in attendance. Schenck was also invited by Justice Thomas into his chambers to see a plaque of the Ten Commandments given to Thomas by Gayle and Don Wright. One of the primary ways Schenk and others obtained the access necessary to build these relationships was through the Supreme Court Historical Society, a nonprofit ostensibly engaged in educating the public on the Court’s history. [The New York Times reported](https://www.nytimes.com/2022/12/30/us/politics/supreme-court-historical-society-donors-justices.html) that in the previous ten years, the society has raised more than $23 million dollars from donors, a substantial but unknowable chunk of which came from corporations, interest groups, and lawyers who have an interest in cases pending before the Court. The society has a black-tie dinner in New York City, attended by all the justices, at which generous donors receive special recognition. Contributors get to rub shoulders with the justices at the dinner and other events. Schenk encouraged his own donors and others in the antiabortion movement to become trustees by donating at least ten thousand dollars. That is one way Gayle Wright built her “missionary” relationships. The society and its leadership deny that contributions influence matters before the Court, but that is not the point. The donors do not think they are buying results in particular cases. They think that their contributions give them access to justices, just as lobbyists use candidate fundraising to gain access to Congress and the White House. Despite its protestations of impartiality*,* the Court stubbornly refuses to be bound by the ethical rules that govern every other federal judge in the country. Those rules, embodied in the Code of Conduct for United States Judges, prohibit *ex parte* communications between judges and persons interested in their decisions and demands that judges avoid impropriety and the appearance of impropriety in all their affairs. They likewise require recusal when a judge’s impartiality might reasonably be questioned or when a decision might affect a judge’s personal interest or the interest of a family member, and they prohibit fundraising for charitable organizations — even educational ones. By their refusal to be bound by these rules, the justices explicitly maintain that they may engage in conduct which for all other federal judges would be unethical. That includes indulging in the kind of relationships that have just been disclosed and presiding over cases in which a justice’s spouse, such as Justice Thomas’s wife and January 6 insurrectionist Ginny Thomas, is a vigorous advocate for or against a cause before the Court. The six justices in the majority have signaled that they intend to select and decide cases in a way that advances goals of the far right, notwithstanding the pretense of calling “balls and strikes.” They have now issued multiple decisions in which they unashamedly torture precedent and rely upon biased recitations of history to support their desired outcome. **There’s no denying this Court and its supporters care more about the results than the reasoning. When justices vote on a specific case as the president who nominated them promised they would, the public justifiably perceives that this branch of government is no less political than the other two.** When the explanations for their votes appear to be shallow or disingenuous, the skepticism mounts further. The majority’s explanation in [*Dobbs v Jackson Women’s Health Organization*](https://www.supremecourt.gov/opinions/21pdf/19-1392_6j37.pdf)for overruling *Roe v Wade* was that the Constitution did not contain a right to abortion and no such right was recognized at the time of the Fourteenth Amendment. This reasoning is shallow by any standard. By that rationale, there would be no right to obtain contraceptives, to marry a person of another race or of the same gender, or to the privacy of sexual conduct between adults. The dissenters wrote that the only reason the majority overruled *Roe* is because they have always despised it and went on to point out that the reason women did not claim a right to abortion in 1868 was that they had no rights at all. The dissenters got it right, but to those who oppose abortion, including Justice Alito’s dinner companions, whether the reasoning was sound or not is entirely irrelevant. Similarly, in [*New York State Rifle and Pistol Assn v. Bruen*](https://www.supremecourt.gov/opinions/21pdf/20-843_7j80.pdf), the Court twisted the text of the Second Amendment and misrepresented the history of firearm regulations in England, the colonies, and this country to justify invalidating virtually all state regulation of gun possession*.* The decision entirely ignored the harm to human life that it will cause, as well as the relevant history of firearms regulation and outright prohibition, but it was a victory for conservatives as well as for the gun lobby, which had donated multiple millions to the cause. None of them complains about hypocrisy. This term in [*Moore v Harper*](https://www.scotusblog.com/case-files/cases/moore-v-harper-2/)*,* the Court is considering the bizarre notion that state legislatures are uncontrollable by state courts in deciding the manner of elections. It could not arrive at such a conclusion without some creative reinterpretations of the nation’s history. Even if the Court does not go so far as conservatives want, the fact that it has decided to hear the case at all is encouraging to those opposed to free and fair elections. The people who deny that President Biden won the 2020 election are salivating over the prospect of state legislatures having the final say on who wins and who loses the next one. **The Supreme Court is running the risk that it will lose its credibility and its decisions will no longer be accepted by the majority of Americans.** [**In an interview**](https://www.washingtonpost.com/magazine/2022/08/16/supreme-court-roe-vs-wade-clarence-thomas/) **last year, Professor Laurence Tribe put it succinctly. The danger, he said, is that if the court “becomes so headstrong and so out of touch with modern reality and so unwilling to listen effectively to counterargument and so agenda-driven and so committed to its, really, alternative facts,” then it’s likely people will eventually “start defying what it says.” He warned that point is getting closer. This Court’s conservative majority is clearly committed to arriving at its preferred results. As Professor Tribe said, “when they’ve got the votes, they don’t even care about the reasoning.” It also seems that they do not care about the decline in credibility for which they are responsible.** They are imposing an agenda and feigning impartiality. In the process, they put at risk the role our Constitution envisioned for a branch of government not affected by politics — and our democracy itself.

**Life-tenure is severely outdated, reform is necessary.**

**Khullar and Jena 18** [Dhruv Khullar and Anupam B. Jena, 8-31-2018, "How Modern Medicine Has Changed the Supreme Court (Published 2018)," No Publication, <https://www.nytimes.com/2018/08/31/upshot/supreme-court-longevity-lifetime-appointments.html>]

Two related health trends mean that each Supreme Court nomination now has the potential to shape the nation’s highest court for far longer than in the past. **One is that Americans live decades longer than they did when the country was founded.** At the same time, medical and public health advances have changed the dominant causes of death from infectious to chronic diseases. Infectious diseases typically kill fast, while chronic ones have a longer course. This shift toward a longer and slower decline, as opposed to more rapid death, means that justices are more able to select the administrations and political environments in which to end their terms — to, in effect, pass the baton. Justice Anthony M. Kennedy, for example, was [reportedly assured](https://www.nytimes.com/2018/06/28/us/politics/trump-anthony-kennedy-retirement.html) that his judicial legacy would be preserved should he step down. Senate confirmation hearings for the man nominated to succeed him, Judge Brett Kavanaugh, begin next week. **Life tenure meant something different when the founders were drafting the Constitution and guaranteeing federal judges lifetime appointment “during good behavior” to insulate them from politics. Life expectancy was around 40; political polarization was narrower; and the Supreme Court’s role was still** [**uncertain**](https://www.youtube.com/watch?v=hOvsZyqRfCo)**. The data confirms that the average life span of justices has steadily increased over the past two centuries.** Justices confirmed before 1800 lived, on average, to age 67; those confirmed between 1950 and 1974 lived to almost 82. Only one justice (Antonin Scalia) confirmed between 1975 and the turn of the century has died, and the average age of this cohort to date is over 82 years. **At the same time, the age at which people are becoming justices has been decreasing.** Since 1900, the average age at confirmation has declined to 52.2 years from 55.4. Justice Neil Gorsuch, confirmed at 49 last year, may well serve into the middle of this century. President Trump’s current nominee, Judge Kavanaugh, is 53.The result? The length of tenure for a Supreme Court justice has grown by about a decade since the Civil War. Justices confirmed just after the war served about 16 years, while those confirmed at the end of the 20th century have served, on average, 26 — a number that will continue to grow as incumbent justices serve out their terms. **That wasn’t the reality in the early decades of the Supreme Court. More than 80 percent of those confirmed in the early 1800s died during their tenures.** By contrast, only 11 percent of those confirmed in the second half of the 20th century died in office; the rest retired. Modern justices are more likely to survive serious illnesses. Justice Ruth Bader Ginsburg, 85, for example, has survived both colon and pancreatic cancer (and [recently said](https://www.nytimes.com/aponline/2018/07/30/us/politics/ap-us-supreme-court-ginsburg.html) that “I have about at least five more years” on the Court). Justice Sonia Sotomayor, 64, has had [Type-1 diabetes](https://www.npr.org/2011/06/21/137328180/sotomayor-opens-up-about-diabetes) since childhood. Supreme Court nominations have become increasingly rare. One recent [analysis](https://www.oliverwyman.com/our-expertise/insights/2018/jul/how-longer-lifespans-are-reshaping-the-supreme-court.html) estimated that only 25 justices will be appointed in the coming 100 years, compared with 47 appointed in the last 100 years. **That means the consequences of each nomination are growing larger and the political battles more heated. A justice experiencing mental decline may be more likely to stay on and retire during a presidential term in which a successor could carry on his or her legacy.**

**This affirms- It’s inherently undemocratic to have justices represent a whole population be picked through an overly politicized process, where they can be manipulated by the wealthy to represent certain parties. Current justices were nominated by an older generation and represent an older generation, they’re out of touch with people today. Term-limits will de-politicize the process and simply allow for the nomination of the best possible candidate.**

**Contention 2: Polarization**

**Lobbying for the Supreme Court furthers political polarization.**

**Cohn 22** [Marjorie Cohn, 11-29-2022, "Evangelical Lobbying Threatens Supreme Court’s Independence," Truthout, <https://truthout.org/articles/evangelical-lobbying-threatens-supreme-courts-independence/>]

**Recent exposés have uncovered an emerging pattern of improper lobbying of right-wing Supreme Court justices by wealthy evangelicals. They reveal serious threats to the independence of the judiciary.** But equally alarming is that the Supreme Court is unconstrained by a code of judicial ethics. [**From 1995 to 2018**](https://www.nytimes.com/2022/11/19/us/supreme-court-leak-abortion-roe-wade.html)**, the right-wing evangelical nonprofit Faith and Action executed “Operation Higher Court.” It was an organized and systematic campaign “to wine, dine and entertain conservative Supreme Court justices while pushing conservative positions” on social issues pending before the court,** [**Politico reports.**](https://www.politico.com/news/2022/07/08/religious-right-supreme-court-00044739) Faith and Action “would rehearse lines” in order “to influence the justices while steering clear of the specifics of cases pending before the court.” Faith and Action reportedly arranged for 20 couples to travel to Washington, D.C. to wine and dine Samuel Alito, Clarence Thomas and Antonin Scalia. **In 2014, Alito dined with evangelical lobbyists who left with inside knowledge that** [**Burwell v. Hobby Lobby**](https://supreme.justia.com/cases/federal/us/573/682/#tab-opinion-1970980) **would go their way. Sure enough, three weeks later, the Supreme Court issued its decision in Hobby Lobby, holding that corporations that claim religious objections can refuse to fund contraception required by the Affordable Care Act. Alito wrote the majority opinion. Alito authored the court’s decision once again in 2022, this time in** [**Dobbs v. Jackson Women’s Health Organization**](https://www.supremecourt.gov/opinions/21pdf/19-1392_6j37.pdf)**, which overturned** [**Roe v. Wade**](https://supreme.justia.com/cases/federal/us/410/113/#tab-opinion-1950137)**. Four months before Dobbs came down, Alito’s** [**draft majority opinion**](https://truthout.org/articles/will-roes-demise-be-death-knell-for-contraception-marriage-rights/) **was leaked to Politico. The final opinion largely tracked the draft. It is likely not a coincidence that both decisions served the conservative evangelical agenda and both were leaked by people with advance knowledge of the results.** Although the right-wing members of the court had probably already made up their minds in these two cases, the leaks were apparently designed to strengthen their resolve. The operation was called the “Ministry of Emboldenment,” Jodi Kantor and Jo Becker [reported](https://www.nytimes.com/2022/11/19/us/supreme-court-leak-abortion-roe-wade.html) in their explosive November 19 New York Times article, quoting whistleblower Rev. Rob Schenck who used to run Faith and Action. Its goal was to “embolden the justices” to write “unapologetically conservative dissents.” Schenck “said his aim was not to change minds, but rather to stiffen the resolve of the court’s conservatives in taking uncompromising stances that could eventually lead to a reversal of Roe,” Kantor and Becker wrote. For years, Schenck was at the center of the anti-choice movement. “He gained access through faith, through favors traded with gatekeepers and through wealthy donors to his organization, abortion opponents whom he called ‘stealth missionaries,’” according to Kantor and Becker. Schenck even bought a building across the street from the Supreme Court to facilitate his campaign.

**The current system exacerbates party politics in the court.**

**Shapiro 21** [Ilya Shapiro, xx-xx-xxxx, "The Politics of Supreme Court Confirmations and Recommendations for Reform," Cato Institute, <https://www.cato.org/testimony/perspectives-supreme-court-practitioners-views-confirmation-process>]

**Politics has always been part of the process of selecting judicial nominees, and even more part of the process of confirming them. From the beginning of the republic, presidents have picked justices for reasons that include balancing regional interests, supporting policy priorities, and providing representation to key constituencies. Whether looking to candidates’ partisan labels or “real” politics, they’ve tried to find people in line with their own political thinking, and that of their party and supporters.** Even in the old days, it was rare for someone to be on the Supreme Court “short list” of presidents of multiple parties. Look at the judicial battles of John Adams and Thomas Jefferson, with the Midnight Judges Act — the original court‐​packing — as well as Jefferson’s failed attempts to appoint justices to counter the great Federalist John Marshall. In the years that followed, when U.S. politics were defined by rivalries within the Democratic‐​Republican Party and its successors, ambitious lawyers knew that their careers depended on navigating the intra‐​party split. There’s never been a golden age when “merit” as an objective measure of legal acumen was the sole consideration for judicial selection. When those nominees got to the Senate, they faced another gauntlet, particularly when the president’s party didn’t have a majority. Historically, the Senate has confirmed fewer than 60 percent of Supreme Court nominees under divided government, as compared to just under 90 percent when the president’s party controlled the Senate.[1](https://www.cato.org/testimony/perspectives-supreme-court-practitioners-views-confirmation-process#_ednref1) Timing matters too: over 80 percent of nominees in the first three years of a presidential term have been confirmed, but barely more than half in the fourth (election) year. Nearly half the presidents have had at least one unsuccessful nomination, starting with George Washington and running all the way through George W. Bush and Barack Obama. James Madison had a nominee rejected, while John Quincy Adams had one “postponed indefinitely” — you have to love that euphemism. Andrew Jackson was able to appoint Roger Taney only after a change in Senate composition, while poor John Tyler, a political orphan after the Whigs kicked him out of their party, had only one successful nomination in nine attempts. Most 19th‐​century presidents had trouble filling seats, before we had a run from 1894 until 1968 where only one nominee was rejected, John Parker under Herbert Hoover in 1930. Since LBJ, all presidents who have gotten more than one nomination had one fail, except George H.W. Bush, Bill Clinton, and Donald Trump — who nonetheless had three of the most contentious nominations in our history. In all, of 164 nominations formally sent to the Senate (counting each submission, even if the same person), only 127 were confirmed, a success rate of 77 percent. Of those 127, one died before taking office and seven declined to serve, the last one in 1882 — an occurrence unlikely ever to happen again. Of the rest, 12 were rejected, 12 were withdrawn, ten expired without the Senate’s taking any action, and three were postponed or tabled. In other words, for various reasons, fewer than three‐​quarters of high court nominees have ended up serving. Based on relative rates of unsuccessful nominations, the argument could be made that the nomination and confirmation process was more political during the nation’s first century than since. Both the presidency and the Court were relatively weak and the process was more of an insider’s game, with many picks based on personal loyalty and political philosophy rather than approach to the law. Of the 57 justices confirmed between 1789 and 1898, 17 lacked significant judicial experience.[2](https://www.cato.org/testimony/perspectives-supreme-court-practitioners-views-confirmation-process#_ednref2) As the judiciary took on a greater role, however, nominations attracted more public attention, and also more transparency. Interest groups began to matter — unions and the NAACP contributed to Parker’s 1930 rejection — as public relations became just as important as Senate relations. Politics came back into the process, but in a different way. The battle became one over ideology and public perception rather than satisfying intra‐​party or regional factions.

**More frequent confirmations will de-politicize the process.**

**Buchanan 20** [Maggie Jo, 6-15-2020, "The Need for Supreme Court Term Limits," Center for American Progress, <https://www.americanprogress.org/article/need-supreme-court-term-limits/>]

**Supreme Court selections have always been political in nature to a degree**, and sitting justices themselves often contribute to this. For example, when Chief Justice Earl Warren—a noted progressive— retired after 15 years on the Supreme Court, he originally submitted his resignation to then-President Lyndon B. Johnson to avoid having a potential Republican president choose his replacement. More recently, however, these problems have been so exacerbated as to weaken the legitimacy of the court itself, culminating in Senate Majority Leader Mitch McConnell’s (R-KY) move to steal a Supreme Court seat by refusing to consider a nominee from then-President Barack Obama. Sen. McConnell followed this unprecedented snub by eliminating the filibuster for a Republican nominee and confirming two controversial justices nominated by President Donald Trump. **Regular appointments, however, would hopefully make the confirmation process less political. For example, there would be less intense pressure on each individual pick because there would be an understanding that winning the presidency comes with the appointment of two justices. Moreover, creating a more regular appointment process would ensure that the court better reflects the broader public. Happenstance can result in presidents getting a greater or lesser number of appointments, potentially resulting in a court that is widely out of step with society as a whole.** While there is a range of potential term-limit proposals, there are some general principles that have rightly achieved broad support. **An 18-year nonrenewable limit is overwhelmingly the most common proposal, although Chief Justice Roberts once expressed support for a 15-year term. Justice Breyer has argued that an 18-year term period would give justices enough time to fully learn the job and develop jurisprudence—a position bolstered by the fact that many justices have voluntarily retired after a similar period of service on the court. Moreover, under advocacy organization Fix the Court’s bipartisan model, the 18-year term would be staggered so that a vacancy would open every two years. This would make certain that each presidential term would bring two new justices—helping to ensure the court reflects the general public.** Once at the end of their term, justices would have the option to continue to work as fully compensated federal judges in senior status, as all currently retired Supreme Court justices have elected to do.

**Depoliticization solves government gridlock.**

**Wasson and James 21** [Legislative, 1-23-2021, "Term Limits: A Solution to Congressional Gridlock, Lobbyists, and Voter Indifference to Elections?," Politica, <https://www.thepolitica.org/post/term-limits-a-solution-to-congressional-gridlock-lobbyists-and-voter-indifference-to-elections>]

**Gridlock in groups of people or organizations happens when ideological differences lead to indecision. In Congress, gridlock presents a lack of bipartisanship or cross-isle cooperation which results in low efficiency and/or effectiveness of government.** Though gridlock in our government is not new, it is one of the top complaints of voters when asked about their reasons for disapproval of Congress. [4] Modern-day gridlock is a combination of deep party-line tensions and Congressional fear of making waves that could cost them their seat in the next election. Gridlock in Congress can affect everything from keeping the government-funded to addressing issues of national importance. **When gridlock gets in the way of what the electorate wants, it creates apathy and mistrust of those charged with leading the country. Gridlock can take on many forms, but none of them fruitful for the governing body, whose duty it is to work for the American people.** The 115th Congress had the highest level of bipartisanship when compared to the past twenty years of Congress in which 68 percent of all enacted bills received bipartisan support. [5] This supposed increase in cooperation across the aisle might indicate that despite seeing very little turnover in representatives, Congress can still function. In reality, however, this was not the case. The vast majority of the bills passed were procedural in nature which mostly sought to “rename buildings, award medals, designate special days”, and other non-substantive changes to government policy. [6] In total, only three percent of all bills introduced were passed and six percent of which were voted upon. [7] In a divided congress, we would either witness a larger number of votes on bills or have fewer bills introduced because there would be less ‘positioning’ for the next election on how bills are treated by the party with control of the Senate or House. Limiting the number of times representatives can run for Congress could work to motivate them to work on bills that might actually get passed. Increased cooperation in Congress would benefit the American people by reducing bipartisanship in the government and increasing the likelihood of Congress passing legislation that would enact substantive change.It should then be no surprise that Congress had the highest level of cross-aisle cooperation without much being accomplished. This redners the legislative session ‘cooperative’ in the sense that bills were passed with the support of both parties but failed to truly demonstrate what a group committed to working together looks like. Despite passing a few important pieces of legislation such as the notable and contended Tax Cuts and Jobs Act of 2017, making significant changes to the tax code, and the Department of Defense and Labor, Health and Human Services, and Education Appropriations Act of 2019, addressing the opioid crisis through providing funding, Congress still falls short of operating to its full potential. If the members of Congress knew that their ability to govern in their current position was limited to a set number of terms, it may push them to be more willing to collaborate on bipartisan legislation, increasing the number of introduced bills that would likely get a vote, and hopefully producing better outcomes for the American people. **If term limits were instituted where each representative is only allowed a set of terms that they can hold a position for, then representatives who want a favorable portrait in history would be less likely to spend their time with partisan politics.** When representatives leave D.C., they would be thrust back into the communities that they represented. Their accomplishments and failures would be known by their community, giving them a higher incentive to work tirelessly and compromise during their time in office. Pushing elected representatives back into their communities after serving their limited number of terms makes governing personal and takes away the theatrical nature that often characterizes politics in the media.

**Decreased government gridlock furthers social change.**

**Gerhardt 13** [Michael J. Gerhardt, 2013, "," Carolina Law Scholarship Respository, <https://scholarship.law.unc.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1088&context=faculty_publications>]

In Part I, I clarify the values and the difficulties that gridlock and its transcendence might facilitate. There is not just one kind of gridlock, nor is there just one kind of benefit—or cost—to overcoming gridlock. The values of gridlock include protecting minorities and preserving the status quo and some freedom from federal regulation. **The costs of gridlock are preventing progress, hindering legal change, exacerbating divisiveness, and empowering factions. But, overcoming gridlock or approving legal change promotes many values, including progress, solving social problems, and providing social benefits. Moreover, it achieves the usual benefits every time the legislative process works—deliberation, consensus, representativeness, and accountability.** Lawmaking might also be costly and be harmful in some ways, including but not limited to social disruption and financial and other costs that compliance with new laws requires. The important thing to understand is glib one-liners about the virtues of gridlock or overregulation should not be mistaken for sophisticated or careful constitutional analysis. It is imperative that, in any discussion of gridlock in the legislative process, we need to move away from polemics and precisely identify which values and which costs are actually being promoted or produced in particular fights or areas of lawmaking.