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**Resolved: The justices of the Supreme Court of the United States ought to be term-limited.**

## Framework

The value is morality because the word ought in the resolution indicates a moral obligation

The value criterion is good governance. Because of two reasons:

1st] Good governance is a baseline requirement for any framework, incorporating unbiased law with diverse perspectives

**United Nations Human Rights.** "About Good Governance." OHCHR, <https://www.ohchr.org/en/good-governance/about-good-governance>. 🌸 BZ

What is good governance? Governance refers to all processes of governing, the institutions, processes and practices through which issues of common concern are decided upon and regulated. Good governance adds a normative or evaluative attribute to the process of governing. From a human rights perspective it refers primarily to the process whereby public institutions conduct public affairs, manage[ing] public resources and guarantee[ing] the realisation of human rights. While there is no internationally agreed definition of 'good governance', it may span the following topics: full respect of human rights, the rule of law, effective participation, multi-actor partnerships, political pluralism, transparent and accountable processes and institutions, an efficient and effective public sector, legitimacy, access to knowledge, information and education, political empowerment of people, equity, sustainability, and attitudes and values that foster responsibility, solidarity and tolerance. In summary, good governance relates to the political and institutional processes and outcomes that are necessary to achieve the goals of development. The true test of 'good' governance is the degree to which it delivers on the promise of human rights: civil, cultural, economic, political and social rights. The key question is: are the institutions of governance effectively guaranteeing the right to health, adequate housing, sufficient food, quality education, fair justice and personal security? Key attributes of good governance The Human Rights Council has identified the key attributes of good governance: transparency responsibility accountability participation responsiveness (to the needs of the people) How are good governance and human rights linked? Good governance and human rights are mutually reinforcing. Human rights standards and principles provide a set of values to guide the work of governments and other political and social actors. They also provide a set of performance standards against which these actors can be held accountable. Moreover, human rights principles inform the content of good governance efforts: they may inform[s] the development of legislative frameworks, policies, programmes, budgetary allocations and other measures. On the other hand, without good governance, human rights cannot be respected and protected in a sustainable manner. The implementation of human rights relies on a conducive and enabling environment. This includes appropriate legal frameworks and institutions as well as political, managerial and administrative processes responsible for responding to the rights and needs of the population.

2nd] The resolution is about the U.S. Supreme Court SPECIFICALLY, begging the question of what a moral government really is

**UNESCAP.** "What Is Good Governance? - ESCAP." United Nations Economic and Social Commission for Asia and the Pacific, <https://www.unescap.org/sites/default/files/good-governance.pdf>. 🌸 BZ

Rule of law Good governance requires fair legal frameworks that are enforced impartially. It also requires full protection of human rights, particularly those of minorities. Impartial enforcement of laws requires

an independent judiciary and an impartial and incorruptible police force. Transparency Transparency means that decisions taken and their enforcement are done in a manner that follows rules and regulations. It also means that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It also means that enough information is provided and that it is provided in easily understandable forms and media. Responsiveness Good governance requires that institutions and processes try to serve all stakeholders within a reasonable timeframe.

## Contention 1 – Judicial (Supreme Court) Independence

**Under term limits, Justices will have to appeal to the party in power to secure their job once their term ends**

**[Professor] Graves et al. 10.** “Recess appointee” replaced with “term-limited judge” – “ - recess appointed Courts of Appeals judges during their temporary appointment tenure...” Legal Studies Paper. Graves, Scott E., et al. “Judicial Independence: Evidence from a Natural Experiment.” SSRN, 17 July 2010, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1641471](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1641471). 🌸 BZ

Recess Appointees and Constrained Decision Making When a recess appointee hears a case, he does not have a permanent appointment, and whether the appointee receives tenure is still contingent [depends] upon re-nomination by the President and confirmation by the Senate (Mayton 2004). Thus, a recess appointee [temporary judge] does not have the structural protections provided by Article III, and, consequently, he is theoretically constrained in his ability to render decisions “unaffected, or at least minimally affected, by the strength of partisan positions among members of the other branches” (Rosenberg 1992, 371). Jefferson B. Fordham, dean of the University of Pennsylvania Law School, remarked that a recess appointee “is serving under the overhang of Senate consideration of a nomination, which is not in harmony with the constitutional policy of judiciary independence” 106 Cong. Rec. 18131 (1960). The Senate, of course, is not the only actor the recess-appointed judge might have to please. In a report written for the Congressional Research Service, Fisher (2005, 4) notes that “(a) recess judge might also have to keep one eye out for the reaction of the White House, which would review decisions issued during the recess period to determine whether they justified nomination of the judge to a lifetime appointment.” Such concerns led the House Judiciary Committee to issue a report in 1959 questioning the independence of judges sitting via recess appointment from political influence (Report 1959). Herz (2005) employs an analogy to illustrate the difference between the situation of a judge sitting temporarily via recess appointment and that of a judge holding permanent commission. “These circumstances” he argues, “put the recess appointee in something of the same position as a law professor on a ‘look-see visit’; his or her job becomes one extended interview. These circumstances are utterly at odds with the commitment to judicial independence reflected in Article III’s good behavior clause and salary protections” (Herz 2005, 450). In fact, a recess appointee is analogous to a judge who is facing reelection. Studies have found that, under certain conditions, elected judges vote[s] strategically to minimize electoral opposition (see Hall 1987; 1992). Specifically, Hall found that “state supreme court justices who have views contrary to those of the voters and the court majority, and who face competitive electoral conditions will vote with the court majority instead of [not] dissenting on politically volatile issues” (Hall 1992, 428). While recess appointed judges will not have to confront the voting public electorate, existing research on court nominations, judicial behavior and judicial voting provides insight into how a recess appointee will behave. We assume that a recess appointee wants to be confirmed, and, accordingly, the “electorate” that the nominee would care about is the president and the Senate, since the president must still re-nominate the recess appointee and the Senate must confirm him. Research has shown that the median ideology of the Senate (Moraski and Shipan 1998) or even the partisan make up of the Senate (Epstein and Segal 2005) can be critical to confirmation as the president and Senate clash over the nominee, each seeking an ideological advantage in the separation of powers struggles (Yates and Whitford 1998). Thus, it is likely that the more liberal or Democratic the Senate, the greater the likelihood that a recess appointee would strategically vote in a liberal direction. Moreover, we expect that a recess appointee would be more likely to vote in a liberal direction if appointed by a liberal president, even controlling for the judge’s ideology, and to cast conservative votes if appointed by a conservative president. In contrast, we anticipate that a confirmed judge would be freer to depart ideologically from the president and the Senate.

**Term-limited Justices will also have career ambitions upon retiring, resulting in an unjust court**

**Black & Bryan 17, political science professors.** Prof. Black: Associate Professor, Department of Political Science, Michigan State University. Prof. Bryan: Assistant Professor, Department of Political Science, Loyola University Chicago. Black, Ryan C., and Amanda Clare Bryan. “The Policy Consequences of Term Limits on the U.S. Supreme Court.” SSRN, 11 Feb. 2017, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2915011](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2915011). 🌸 BZ

Of course, not all scholars agree that term limits are either normatively appealing or the best practical solution to the problems outlined above.<sup>40</sup> The most prominent objection to term limits is that life tenure was created to ensure judicial independence.<sup>41</sup> If justices do not have higher political aspirations, and do not need to advance their [a] career once they leave the bench, they will be able to make principled decisions, rather than popular ones.<sup>42</sup> Farnsworth argues: [L]ife tenure and the longer terms it creates is the regime most consistent with a vision of the Justices as impersonal appliers of interpretive theories. Fixed terms would . . . cause the public’s appetites to be satisfied more regularly, but there is no reason to think they would change the content of the appetites or the relationship between the appetites and judicial behavior . . .<sup>43</sup> In short, many opponents fear that

**[but] term limits will create more** of the problem they are trying to fix by creating more activist **[partisan] judges** who are more responsive to politics and parties **than** their **life-tenured** alter egos.

## **Term limits would bind the Court to party elections – Justices should make moral choices rather than support a specific political party**

**Matthews 22, Institute for Policy**. Merrill Matthews is a resident scholar with the Institute for Policy Innovation in Dallas, Texas. Matthews, Merrill. "The Real Threat to Democracy: Declining Trust in the Courts." The Hill, The Hill, 18 Oct. 2022, <https://thehill.com/opinion/judiciary/3693965-the-real-threat-to-democracy-declining-trust-in-the-courts/>. 🌹 BZ

**A key ingredient for** a healthy **democracy is an independent** and (to the extent possible) an apolitical **judiciary**. Yet recent polls show public trust in the **judicial branch** of the federal government reaching its lowest point in decades, primarily among Democrats. That is entirely because the judicial branch, and **especially the U.S. Supreme Court** isn't ruling the way Democrats want. And their **proposed efforts to "fix" [it]** the Court **would destroy its credibility**. According to a recent Gallup poll, "Forty-seven percent of U.S. adults say they have 'a great deal' or 'a fair amount' of trust in the judicial branch of the federal government that is headed by the Supreme Court. This represents a 20-percentage-point drop from two years ago ..." It's also a 33-percentage-point drop from 1999, when 80 percent trusted the judicial system. But it's the **partisan breakdown [is] that's most revealing, and concerning**. Gallup says that 67 percent of Republicans trust the judicial branch. While that number is down from 84 percent in 2020, it's still very high and generally in the range of the overall approval rating since the 1970s. But Gallup puts the Democratic judicial approval rating at 25 percent, down from a Democratic high of 80 percent in 2009, and 74 percent as recently as 2016. Independents' approval came in at 46 percent, which represents a relatively small but steady decline since the late 1990s. The fact that only some 25 percent of Democrats trust the judicial system should concern everyone. They have already made it very clear that they want to change the composition of the Supreme Court, and would have already done so if they had had the votes. We don't know the exact number, but it seems Democrats weren't that far from having the votes they needed (that is, if they could have bypassed a Senate filibuster). Had they been able to pack the court with four or more new justices, any notion of an independent Supreme Court would have vanished. Ironically, its Democrats and the three liberal Court justices who claim the Court is politicized. Justice Elena Kagan recently told students at Salve Regina University in Rhode Island, **"The very worst moments [are] have been times when judges have even essentially reflected one party's or one ideology's set of views in their legal decisions."** Here's the problem with her assessment: It is the three liberals, or four when there was that many, on the Court who vote in lockstep. It is only **conservatives**, including the more moderate Chief Justice John Roberts, who ever **vote with the liberals** on issues that are closely aligned with political ideology. **It was [The] Chief Justice John Roberts who voted with the Court's liberal justices in 2012 upholding the individual mandate to have health insurance under the Affordable Care Act (ObamaCare).** **No one seriously thought any of the liberals would have voted with the conservatives.** It was **Roberts and Justice Anthony Kennedy who voted with the liberal justices in 2015 rejecting a state challenge to ObamaCare.** No one seriously thought any of the liberals would have voted with the conservatives. It was Kennedy who voted with the liberal justices in 2015 to grant a constitutional right to gay marriage. No one seriously thought any of the liberals would have voted with the conservatives. It was **Roberts and Justice Brett Kavanaugh who voted with the liberal justices last year to allow Biden's nationwide pandemic-related ban on evictions to remain in place.** No one seriously thought any of the liberals would have voted with the conservatives. It was Justice Amy Coney Barrett who sided with the liberal justices to block an execution in Alabama. No one ... well, you get the idea.

## **Thus, term limits are structurally violent and harm rights. If Justices can be removed randomly by the President or Senate; then oppression is certain**

**Byman 06, law professor**. The principal draftsman of this paper was Robert L. Byman, FACTL, Jenner & Block, LLP, Chicago, Illinois. Board of Regents. "Judicial Independence: A Cornerstone of Democracy." American College of Trial Lawyers, Actl.com, Sept. 2006, [https://www.actl.com/docs/default-source/default-document-library/position-statements-and-white-papers/actl\\_judicial\\_independence\\_a\\_cornerstone\\_of\\_democracy.pdf?sfvrsn=4](https://www.actl.com/docs/default-source/default-document-library/position-statements-and-white-papers/actl_judicial_independence_a_cornerstone_of_democracy.pdf?sfvrsn=4). [Edited for easier understanding] 🌹 BZ

**The [Court] judiciary, on the contrary, has no influence over** either the sword or the purse; no direction **either** of the **strength or** of the **wealth of the society; and** can take no active resolution whatever. It may truly be

said to have neither FORCE nor WILL, but merely judgment; and **must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments.** Federalist Papers No. 78 (Hamilton). **Because it is the weakest of the three, the judicial branch has the greatest need to be defended.**

But who is to provide the defense? Not the judiciary itself, because it is by design not a political entity; its power to enforce its decrees and protect its independence are limited. The other two branches, its potential antagonists, cannot always be counted on for that defense. The judiciary's principal defense must then come from its intended beneficiaries, the people. As a practical matter, lawyers, both individually and through the organized bar, must take the lead in that defense. Judicial Independence as a Fundamental Principle The Declaration of Independence was addressed to the world, but it focused on the acts of a single man, King George III. Each of the grievances it listed, grievances which led our Founding Fathers to commit treason in the most public of ways, was an act of a King who had usurped to himself and denied to the colonists rights long recognized in his subjects at home. It was, thus, the tyranny imposed by an all-powerful King that led to the American Revolution, and it was the need to ensure against any such future tyranny

that molded the United States Constitution. A century before Lord Acton was to utter in Parliament his famous phrase, "Power tends to corrupt, and absolute power corrupts absolutely," **our forefathers**

**already knew that it was essential to divide and separate the powers of government.** Of all the grievances detailed in the Declaration of Independence, none was greater than the total dependence of Colonial judges upon King George: 3 He has made [Colonial] Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries. Declaration of Independence, July 4, 1776. English judges were assured life tenure during their "good behavior" by the Act of Settlement of 1700, but their Colonial counterparts served at the pleasure of the King. Their salaries were subject to his whims. Judges beholden to the King, not surprisingly, often ruled as he pleased, no matter how unfairly. Our post-Revolution government needed to ensure an independent judiciary. In 1780, nearly a decade before the United States Constitution was ratified, John Adams drafted as the introductory provision of the Massachusetts Constitution a Declaration of Rights, Article XXIX of which provided in part: It is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit. **The concept of judicial independence, that judges**

**should decide cases, faithful to the law, without "fear or favor" and free from political or external pressures,** remains one of the fundamental cornerstones of our political and legal systems, both federal and state.

The first three articles of the United States Constitution separated the three branches of government into the Legislative (Article I), the Executive (Article II), and the Judiciary (Article III). Each Article invested in the branch it created the entirety of the powers that pertained to its function. Each is thus to act as a check and balance against the abuse of power by the others. The United States Constitution, as Alexander Hamilton explained in Federalist 78, is "limited." In contrast to the British theory of government that its powers were granted by the King, the powers of our government were granted by "We, the People." Unless the point of the Revolution was simply to substitute one form of tyranny for another, it was essential that no single person or body be vested with unlimited power. The People, from whom all power to govern was derived, made limited grants of power to the various branches. What was not so granted was reserved to the People. Thus, Congress may enact laws, but only within its limited grant of authority. The Executive may exercise powers, but only within constitutional limits. And it was to the Courts that the People entrusted oversight to ensure that the other branches do not exceed their limited powers. Hamilton went on to explain: By a limited Constitution, I understand one which contains certain specified exceptions to the legislative authority; such, for instance, as that it shall pass no bills of attainder, no ex-post-facto laws, and the like. Limitations of this kind can be preserved in practice no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing. Federalist Papers No. 78 (Hamilton). 4 We live in a democratic society, but our system of government is not a pure democracy, one in which every decision is put to a vote of the people in which the majority rules. In a pure democracy, substantively important decisions: Should we have an income tax? Should medicinal marijuana be permitted? procedurally important decisions: Should we drive on the right or the left? trivial decisions: Should the motor vehicle office be open 9-5 or 8-6? would be put to a vote. It is [not] neither practical nor desirable for every citizen to vote on every issue. And so our Founding Fathers gave us a republic in which we elect representatives who in turn make the day-to-day decisions. This is democracy once removed. And since the People who, through their chosen representatives, created the Constitution knew that they must, as a practical matter, be removed from direct decision-making, they imposed important limits on their elected representatives. Indeed, the Constitution placed limits on each of the three branches of government by creating a system of checks and balances. The elected representatives of the People do not, for instance, have the authority to make adherence to Islam or Judaism a crime. The First Amendment prohibits the legislative branch from making any law that impinges upon freedom of religion. And, lest Congress exceed its authority and enact such a law, or any law that transgresses constitutional limitations on its legislative power, it is the role of the courts to declare the law unconstitutional. 3 The framers left to the judiciary the power to interpret the constitutional limits on the other two branches, precisely because those branches could not always be counted on to stay within those limits. The Founding Fathers, as the voice of the People, bargained for protection from the temporary whims of their successors, the caprices of the elected representatives of the People, in order to keep the nation on a course that is true to our core values. They bargained for a judiciary that would remain sufficiently independent to strike down unconstitutional laws, and the independence of that judiciary became crucially important to the framework of our government. Of the three branches, the judiciary is least likely to offend the

Constitution. It cannot enact a statute, and so it cannot enact an unconstitutional one. It cannot exercise executive powers. By the same token, **the judiciary is positioned to stand[s] up to the other two branches when they exceed their powers,** because it was given the power to do so.

Judicial independence is not, however, merely a matter of checks and balances of constitutional dimension. It is essential to the day-to-day workings of society, to provide a system for the orderly resolution of disputes that is fair, impartial and just and that is so perceived, so that no citizen who has his day in court will feel ill treated, win or lose. Only judges who are insulated from outside intimidation and pressure can fairly administer justice and be perceived to be doing so. 3 We cannot conceive that our country would ever repeal the First Amendment, but we should never forget that it is a theoretical – remote, but frightening – possibility. In fact, the People retain the collective power to abolish any of the liberties we are granted under the Constitution, because they reserved to themselves the power to amend. But the People were wise enough at the creation of the Constitution to put limits on themselves to insure against the caprices of thin transient majorities. The amendment process is difficult, and amendments cannot be lightly made. A constitutional amendment cannot be put to a vote unless two-thirds of Congress or the States propose it, and an amendment cannot be enacted without the approval of three-fourths of the States. Those limitations do not, however, justify complacency. One need only look at the Eighteenth and

Twenty-first Amendments (Prohibition and Repeal of Prohibition) to see that social issues of the day, issues that may seem trivial seventy-five years later, can grow to constitutional proportions. 5 **To preserve**

**judicial independence for Federal judges, the United States Constitution provides for life tenure for judges and prohibits diminution of their compensation.**

The Courts themselves later articulated a third protection, judicial immunity. 4 More than 95% of the country's judicial business is, however, conducted in the state courts by approximately 30,000 judges sitting in courts of first resort and hundreds of appellate judges. Eighty-seven per cent of those judges are elected. 5 Unlike their federal counterparts, state judges generally do not have life tenure. They are subject to periodic reappointment or reelection, with the attendant political pressures that accompany those processes. There has been an ongoing debate among the states about the preferable method of judicial selection and retention. The result is a patchwork of systems, each with its own strengths and weaknesses. The states that stop short of life tenure for their judges

nevertheless usually provide terms of appointment or election that are sufficiently long to afford those judges reasonable job stability. **By design, judges are generally left free**

**[judges] from pressure that they will be[ing] sued, [or] fired or starved in reaction to an unpopular ruling.** Freed of that pressure, judges are able to make just rulings, however unpopular they may be. Two

Twentieth-Century examples illustrate the value of judicial independence to the survival of the nation. **In 1955,** President Eisenhower appointed 37-year-old Frank M. Johnson to the United States District Court in

Alabama. The next year, following the Montgomery bus boycott, **Judge Johnson ruled that racial segregation of city buses was unconstitutional.** He was the first judge to order that the names of qualified African-Americans be added to county voting rolls, and he wrote the first statewide decree ordering an end to public school desegregation. His later opinions outlawed racial discrimination

in Alabama's libraries, transportation centers and its agricultural extension service. He placed numerous state agencies that had refused to comply under judicial supervision. After members of the Ku Klux Klan brutally beat Freedom Riders at the Montgomery Greyhound Terminal, he temporarily restrained the City and the Klan from future wrongs against the protesters. In ordering voting registrars to apply consistent standards, he struck down literacy tests and other discriminatory practices. He opened U.S. Route 80 to freedom marchers, finding that the right of individuals to assemble – the right to march – far outweighed the state's right to maintain unobstructed sidewalks and highways. Judge Johnson's actions earned him the public ire of the Governor of

Alabama, his law school classmate, who branded him an "integrating, scalawagging, carpetbagging liar." Judge **Johnson's decisions also put him at great personal risk.** His mother's **home was bombed** and a cross was burned in his yard. His family often needed the

**protection of United States Marshals.** 4 "[I]t is a general principle of the highest importance to the proper administration of justice that a judicial officer, in exercising the authority

vested in him, shall be free to act upon his own convictions, without apprehension of personal consequences to himself." Bradley v. Fisher, 80 U.S. 335, 347 (U.S. 1872) The Bradley court drew on hundreds of years of English common law to conclude that judicial immunity has always existed. 5 "Electing Judges and the Impact on Judicial Independence," Hon. Randall T. Shepard, Tennessee Bar Journal, Vol. 42, No. 6, June 2006, p. 22ff. 6 In awarding Judge Johnson the Presidential Medal of Freedom, the country's highest civilian award in 1995, President Clinton remarked that, "[D]uring forty years on the bench, Judge Johnson made it his mission to see to it justice was done

within the framework of law. **In the face of unremitting social and political pressure to uphold the traditions of**

**oppression** and neglect in his native South, **never once did he yield.** His landmark decisions in the areas of desegregation, voting rights and civil liberties transformed our understanding of the Constitution." Similarly, United States District Judge Robert R. Merhige, Jr. presided over numerous cases that raised the public hackles in Virginia. In 1970, he ordered the University of Virginia to admit women. He presided over the trials of Ku Klux Klan and American Nazi Party members accused of injuring and killing members of the Communist Workers Party. Many considered him the most hated man in

Richmond when he ordered the integration of the Virginia public school system. He required 24-hour protection. Even so, his family, threatened, had to leave town for many months. Protesters spat in his

face and held weekly parades outside his home. His dog was shot. A guest cottage on his property, where his mother-in-law lived, was set afire. 6

**Judges should expect public criticism for unpopular opinions.** They should expect appellate review and, when appropriate, reversal on appeal. They should expect calls for impeachment if they themselves violate the law. But they should not have to expect to have their mothers' homes bombed, their dogs shot or their families threatened. They should not expect, nor should

any person who values liberty allow, improper assaults on their judicial independence. The nation owes its thanks to Judge Johnson, Judge Merhige, and countless others like them. Without judicial

independence, the schools in Alabama, Virginia, and other states would have remained segregated. Judges know that their judicial decisions will sometimes be unpopular. But the Constitution gives them a mandate, in both senses of that word, to do justice. They are mandated – required – by their oath of office to uphold the law. They also have the mandate – the protection – of the Constitution to do so despite the disapproval of their decisions by a temporal majority. Their judicial independence is necessary to enable them to do what is right.

## Contention 2 – Court Inefficiency

### **A term-limited Supreme Court would be targeted with regular delays and political tricks**

#### **Vladeck & Eastman 17, Law Professors**

Vladeck, Stephen, and John Eastman. "Setting Term Limits for Supreme Court Would Bring Too Many Political Problems." Dallas News, 7 Mar. 2017, <https://www.dallasnews.com/opinion/commentary/2017/03/07/setting-term-limits-for-supreme-court-would-bring-too-many-political-problems/>. Stephen I. Vladeck is a professor at the University of Texas at Austin School of Law. He wrote this column for The Dallas Morning News. Email: [svladeck@law.utexas.edu](mailto:svladeck@law.utexas.edu) John C. Eastman is a professor of law and community service at Chapman University Dale E. Fowler School of Law. 🌸 BZ

If anything, term limits would exacerbate the political problem, since there would now be [create] a predictable schedule of when future seats will come open, and thus that much greater of a potential upside for stalling, horse-trading, and any number of other political machinations. All of these maneuverings would be designed, like the Senate's refusal to even consider Merrick Garland's nomination, to maximize one party's influence in shaping the court's future, which would thereby redound to the detriment of the Supreme Court's public reputation and independence, and, as such, its legitimacy. Second, from the justices' perspective, term limits create the very risk that the Constitution's protections of judicial independence were meant to abate: that, in considering their life after their tenure on the Court, they might be beholden to outside forces in their exercise of the "judicial power of the United States." After all, even with 18-year terms, Justice Thomas would have had to step down from the Court in 2009 at the age of 61. Unless we also mandate that former justices fully retire, they will inevitably feel pressure to take up other income-generating positions after their time on the court, pressure from which life tenure is supposed to insulate them. Third, the more we impose constraints on the justices, whether as a matter of statute or constitutional amendment, the more of a precedent we set for further inroads into the justices' (and the court's) authority. Although there are important examples to the contrary, the political branches have generally respected and protected the independence and autonomy of the third branch, even (if not especially) when the courts have ruled against them. Imposing term limits would be a powerful, contrary assertion of democratic power at the expense of the countermajoritarian judiciary. Finally, a concern shared by those who support term limits: too many judges fail to adhere to the role the Constitution assigns to them of merely interpreting rather than making the law. This would not be remedied by a term-limits constraint at all. Judicial activism over 36 years is still a problem, whether exercised by a single justice or two justices serving in back-to-back 18-year appointments. Those who see this kind of judicial role as the true problem should direct their reforms accordingly. Whether you are a liberal or conservative, a Democrat or a Republican, the odds are that some of your favorite justices served well past 18 years, and, indeed, did some of their most important work in the latter stages of their careers. From Justice Brennan to Justice Scalia, and Chief Justice Marshall to Chief Justice Rehnquist, many of the Court's most significant rulings have come from Justices well into their third (or fourth) decades of service. We are by no means indifferent to the concern about Justices whose faculties no longer allow them to carry their weight, but if that's the problem motivating term limits, there are far easier--and less over inclusive--ways to solve it. To impose term limits on all Supreme Court Justices would not, in our view, solve the real problem--the seemingly irreversible politicization of nominations--and, indeed, could serve only to further politicize (and, thus, weaken [it]) the Court going forward.

### **Marcum in 2020, governance, poses the question:**

Anthony Marcum is a fellow for the Governance Project at the R Street Institute. Marcum, Anthony. "Supreme Court Term Limits Would Increase Political Tensions around Justices, Not Ease Them." USA Today, Gannett Satellite Information Network, 13 Oct. 2020, <https://www.usatoday.com/story/opinion/2020/10/13/scotus-term-limits-political-temperature-even-higher-column/5873219002/>. 🌸 BZ

Finally, term limits do not solve today's politicization. At best, it is a multi-decade plan to fully implement. Absent impeachment, today's justices cannot be forced off the Court. And many of the Court's youngest jurists may serve for 30 years or more. And when a regularized vacancy process finally does roll into place, what is to stop the Senate from not confirming a nominee to fill the vacancy? Go further. With 18-year terms, what is to stop a Senate refusing to hear four years' worth of nominees, giving the next president potentially four open seats in just the first term? The Senate's recent refusal to consider Merrick Garland's 2016 nomination is just the groundwork for such shenanigans.

### **AND, more frequent appointments waste time, drawing everyone's attention**

#### **Madonna et al. 16, PhD in Political Science**

Anthony J. Madonna is an Associate Professor in the Political Science Department at the University of Georgia. He received his PhD in political science from Washington University in St. Louis in 2008. Madonna, A.



J., Monogan, J. E., & Vining, R. L. (2016). Confirmation Wars, Legislative Time, and Collateral Damage. *Political Research Quarterly*, 69(4), 746–759. doi:10.1177/1065912916658128 🌸BZ

The unidimensional spatial model suggests that presidents select Supreme Court nominees that best satisfy their ideological goals while garnering support from pivotal senators. **More controversial nominees may lead the president to “go public” more often in their defense (C. M. Cameron and Park 2011; Johnson and Roberts 2004, 2005).** This can increase the transaction costs of achieving other policy goals. We develop a theoretical framework to explain this relationship. We then examine the impact of Supreme Court nominations on two key presidential powers: the ability to enact their legislative agendas and fill vacancies to lower federal courts. The Importance of Transaction Costs It is not surprising **the executive branch devotes substantial time and energy to selecting and promoting a Supreme Court nominee.** However, events like **Supreme Court vacancies increase the transaction costs associated with enacting other agenda items.** <sup>2</sup> These **nominations occupy the attention of the president, senators, the media, and interest groups.** We discuss each in turn. A **Supreme Court nomination affects the president’s ability to advocate for other agenda items in two ways. First, Supreme Court nominations force the president to [spend] expend resources such as time and staff attention that cannot be applied to other policy priorities** (Moraski and Shipan 1999). The vetting and confirmation processes require time, which is scarce for political actors (Jones and Baumgartner 2005). Controversial nominees force the president to advocate publicly more aggressively. Time spent advocating confirmation is not devoted to legislation or lower court nominees. Second, a battle over a Supreme Court nomination may diminish the president in the eyes of the public and Congress. Partisan opponents use difficult confirmation processes to undermine the president’s power in other areas (Groseslose and McCarty 2001). Presidential approval wanes over the length of a Supreme Court confirmation. This may weaken the president in relation to the Senate in ways “such as bargaining with the President over legislative bills, the budget, executive branch acts, and other appointments” (Shipan and Shannon 2003, 657). This fits with research suggesting the president’s ability to “go public” successfully depends on the popularity of the president’s position (Canes-Wrone 2001; Edwards 2009). Greater transaction costs embolden hostile senators who can benefit when the president spends more time and effort on Supreme Court nominees—even if the nominee is likely to be confirmed. For example, in discussing how Stevens’s retirement could help minority party Republicans deprive Democrats from enacting agenda items, Minority Conference Chair Lamar Alexander (R-TN) noted that “a Supreme Court nomination always stops things around here” (Hulse and Zeleny 2010). The limiting effects of a controversial Supreme Court nomination on the president’s legislative success are exacerbated by the Senate’s rules. The Senate lacks a majoritarian procedural mechanism for controlling the chamber. Small groups or individuals can obstruct the legislative process by promoting their own interests. Senate time has become a “common pool resource” that individuals frequently use at the larger group’s expense (Smith 2014, 88). The value of floor and committee time has amplified as the chamber workload has grown, members have spent more time in their home states, and obstruction has increased (Koger 2010; Smith 2014). **These demands on Senate time have policy consequences because sessions expire before legislation can be considered and passed** (Oppenheimer 1985). One way a Supreme Court nomination can have policy consequences is the monopolization of Senate floor time. Despite the presence of a cloture rule allowing three-fifths of the chamber to end debate on most measures, obstruction increased in the latter half of the twentieth century (Binder 1997; Koger 2010; Wawro and Schickler 2006). Even when the majority can invoke cloture, the process is time-consuming. The vote on a cloture petition can occur only after it lies over for two calendar days. Then, thirty hours of debate and amending activity can occur before a final vote. A motion to proceed to consideration of a proposal is also subject to delay, which often necessitates leaders go through the cloture process twice. Given the high transaction costs associated with scheduling and passing legislation on the Senate floor, time spent debating Supreme Court nominations can be costly. Controversial nominations can also monopolize committee time. The Senate Committee on the Judiciary considers all judicial nominees and has unique norms (e.g., the blue slip process, judicial confirmation hearings, and quasi-formal cooperation with the American Bar Association’s Standing Committee on the Federal Judiciary). The committee devotes substantial attention and resources to Supreme Court nominees (Bell 2002). Its vetting process for the nominee receives ample political and press attention. The high profile of Supreme Court nominees encourages committee members to give them outsized attention relative to lower court nominees. Judiciary Committee members and their staffs must investigate a nominee thoroughly and quickly, requiring that they redirect their efforts away from lower court nominees. Senators probe nominees for information regarding their backgrounds, judicial philosophies, and ideologies during confirmation hearings. These hearings have been featured on national television since 1981, and senators are rewarded or punished for their performance in them (Bell 2002). This influences the Senate’s ability to process lower court nominees, especially for district courts. Relative to circuit court nominations, district court nominations tend to be more numerous and less controversial. For this reason, the Judiciary Committee’s process for reviewing nominees is more efficient at the district court level. Therefore, the potential for delay is greater for district court nominees. Thus, hard-fought wars over Supreme Court nominees can cause collateral damage to both the president’s legislative agenda and his ability to fill lower court vacancies. Controversial **Supreme Court nominations also draw attention from media and interest groups.** Organized interests treat them as opportunities to advance their policy goals and organizational maintenance (Bell 2002; Vining 2011; Watson and Stookey 1995). Presidents sometimes encourage this behavior by marshaling interest groups to promote their nominees (Maltese 1995, 128–40). The press recognizes that Supreme Court nominations are rich with conflict and consider them newsworthy (Solberg and Waltenburg 2015, 85–107). Attention from interest groups and the media has implications for reelection-minded senators. Constituents are more likely to form preferences about potential justices than lower court nominees and expect senators to express their wishes via the investigative process, public statements, and votes. Senators are likely to respond to constituent (and donor) preferences during the confirmation process and perceive it as an opportunity for position-taking. **In sum, controversial Supreme Court nominations can diminish the president’s standing and force him or her to shift time and resources from other agenda items, consume valuable Senate floor and committee time, and redirect the media and interest groups away from other agenda items while providing senators with incentives to position-take on nominations.** This suggests presidents are aware that **confirmation “battles” can result in collateral damage to their agenda.** Accordingly, they may seek to mitigate the controversy associated with a nominee. However, this is not always desirable for the administration given the ideology of the outgoing justice and the importance of the Supreme Court. Based on our preceding discussion, we form two hypotheses: Hypothesis 1: Presidents who expend more effort to advocate confirmation of a Supreme Court nominee are less likely to see timely enactment of legislative agenda items. Hypothesis 2: **Presidents who extensively advocate for Supreme Court nominees are less likely to get timely confirmation for their nominees to lower federal courts[, too].**

**All of this leads to an inefficient Supreme Court and government that can’t focus on important policies – solving poverty being one. Term limits would ruin our progressing status quo**

**Parrott 22, Budget Center.** Sharon Parrott, President, Center on Budget and Policy Priorities, Before the House Select Committee on Economic Disparity and Fairness in Growth. Parrott, Sharon. “The Nation Has Made Progress against Poverty but Policy Advances Are Needed to Reduce Still-High Hardship.” Center on Budget and Policy Priorities, 28 July 2022, <https://www.cbpp.org/research/poverty-and-inequality/the-nation-has-made-progress-against-poverty-but-policy-advances>. 🌸BZ

This nation's economic and health security programs are far stronger than they were 50 years ago and do much more to reduce poverty. After accounting for the impact of government benefits and taxes, poverty fell by more than one-third between 1970 and 2017. The progress is **due to policy advances**. In 1970, economic security programs **reduced** the number of people in **poverty by just 9 percent; by 2017 that figure had jumped to 47 percent**. (See Figure 1.) Government's increasingly effective role in reducing poverty reflects the creation of programs such as Supplemental Security Income (SSI) for the elderly and disabled (in 1974), the national food stamp program now known as SNAP (made nationwide in 1974), tax credits like the Earned Income Tax Credit or EITC (in 1975) and Child Tax Credit (in 1997), as well as the strengthening of older policies such as rental assistance and Social Security. Social Security lifts more people out of poverty than any other program overall, and its impact has grown as the population has aged and more people have retired. But progress in fighting child poverty has been substantial. Among children, the government role went from not reducing poverty at all in 1970 to cutting poverty by 46 percent in 2017; the tax code — because of the EITC and Child Tax Credit — lifts more children above the poverty line than any other individual program. These stronger policies have reduced poverty for all racial and ethnic groups while also reducing the nation's still-large racial differences in poverty. For example, government assistance cuts poverty by about half among Black children and among white children, but it lifts a much larger share of Black children out of poverty than of white children because poverty is more widespread among Black children. **Nevertheless**, U.S. anti-poverty policies have large gaps that leave U.S. children more exposed to poverty than children in other wealthy nations. For example, the U.S. has a much higher share of children living in families with incomes below half of the national median (a common way of measuring poverty internationally) than any of the world's 18 other similarly wealthy nations. This is largely due to weaker government aid in the U.S., since many countries have child poverty rates similar to our own before counting government assistance. **FIGURE 1 Share Chart on Facebook Share Chart on Twitter Chart In addition, an estimated 12.5 million Americans have "deep poverty" incomes**, that is incomes (including government assistance) below half of the poverty line, or below just \$14,200 a year for a typical family of four, after corrections for underreporting of government assistance. They include nearly 2 million children under age 18, who are particularly vulnerable to serious hardships that have long-lasting negative impacts, as well as nearly 2 million parents and other adult family members of children. Although many families know the stresses of struggling to meet basic needs, the widespread nature of this insecurity is not always well understood, because data on such hardships seldom span more than a year of a family's life. Many more **families face hardship over multiple years than in a single year**. More than 1 in 4 households, including more than 1 in 3 households with children, experienced a major form of hardship — specifically, **an inability [unable] to afford adequate food, [and] shelter, or utilities** — in one or more of the years 2014, 2015, and 2016, CBPP analysis of Census data finds. Among Black and Latino households with children, roughly 1 in 2 reported one of these hardships, as did more than 1 in 4 white households with children. Even many households who are currently in the middle of the income scale may encounter hardship over time; among the middle third of households with children (ranked by their current annual income), nearly 1 in 3 reported one of these hardships over that three-year span — for example, because their incomes had fallen. Gaps in economic security programs contribute to these problems. For example, the Child Tax Credit suffers from an "upside-down" design, providing the least help to the children who need it the most. The current design denies the credit entirely to children whose families have less than \$2,500 in earnings in a single year and provides less than the full credit to low- and moderate-income families (such as a single parent with two children earning \$20,000 working as a home health aide) even as married couples making up to \$400,000 can receive the full credit. Some 27 million children receive a partial credit, or none at all, because their families' incomes are too low. Similarly, most unemployed workers do not qualify for unemployment insurance because program rules have not kept up with changes in the workforce since the system was established in the 1930s; **many** low-paid workers, **people of color, [and] women, and contract workers** in particular, **are wholly ineligible for jobless benefits when they lose their jobs**. Programs like rental assistance and child care assistance help only a small share of eligible families because funding is inadequate. And the Temporary Assistance for Needy Families (TANF) program provides cash assistance to only a very small share of families with incomes below the poverty line, due to restrictive program rules and programmatic choices that make it hard for families to access assistance. This nation's long history of racism and discrimination in jobs, housing, education, and other areas also contributes significantly to poverty — and to the large differences in poverty rates among groups. As of 2017, poverty rates were more than twice as high among Black (20.9 percent) and Latino (20.1 percent) people than among white people (9.8 percent). Child poverty reflected the same dynamic, with Black and Latino child poverty rates at 21.3 and 20.3 percent, respectively, compared to 8.3 percent among white children. Immigrants and their family members also have unique economic and health security challenges. Given the lack of progress on immigration reform, many immigrants who have been living and working in U.S. communities for decades are blocked from obtaining a lawful immigration status or accessing a pathway to citizenship and, as a result, are often subject to unfair labor practices and wage theft. Moreover, immigrants face systemic barriers to receiving help from economic security programs when they need it. Immigrants without a documented status are barred from receiving most forms of assistance; some immigrants with a documented status are also ineligible. Moreover, some immigrants or their family members are eligible for help through programs like SNAP or Medicaid but face barriers to accessing that help, including the fear that it would hurt their ability to remain in the country. **Poverty is harmful both now and over the long term**. The good news is that strong research shows that reducing poverty and economic insecurity not only reduces near-term hardship but also generates lasting benefits. For example, studies have found that when programs provide additional cash assistance, participating low-income young children do better in school and earn more as adults. When elementary and middle school students received access to free school lunches, their academic performance likewise improved. When the food stamp program (now called SNAP) first expanded across the country in stages in the 1960s and 1970s, newly eligible children had better health outcomes, both as newborns and later as adults, and grew up to be more economically self-sufficient. Another area where public investments can have both short- and long-term benefits is health coverage. Numerous studies have shown that health coverage increases access to care, improves health outcomes, and saves lives. Expanding Medicaid coverage under the Affordable Care Act (ACA), for example, prevented an estimated 19,200 deaths among near-elderly adults just in its first four years, studies found. Health insurance also improves economic security: people with health coverage are less likely to have medical debt, less likely to be evicted, and less likely to face bankruptcy, studies show. Expansions of public programs over recent decades have greatly improved access to health coverage. Most recently, the ACA expanded Medicaid eligibility for adults and created a system of premium tax credits to help people with low and moderate incomes afford private coverage. While significant progress has been made in expanding coverage, nearly 30 million people were uninsured shortly before the pandemic. They included the 2.2 million people in the Medicaid "coverage gap," that is, people whose incomes are too low to qualify for premium tax credits but who are ineligible for Medicaid because their states have refused to adopt the Medicaid expansion. Sixty percent of people in the coverage gap are people of color. In response to the pandemic, **policymakers approved a robust relief effort to shore up the nation's economic security policies. Relief measures included both broad-based policies, like Economic Impact Payments, and policies that targeted those with the greatest needs, like expansions in SNAP benefits, help for those at risk of eviction, and expansions in the EITC and Child Tax Credit. These measures largely prevented a spike in annual poverty and hardship rates and even reduced poverty significantly. The number of people in poverty fell by 10 million in 2020, the most in more than 50 years, using the Supplemental Poverty Measure (SPM) — the more comprehensive of the government's two annual poverty measures, which counts both cash and cash-like assistance.**<sup>[1]</sup> **Without the COVID relief measures, the number of people with incomes below the poverty line would have risen by 8 million.** The pandemic relief measures also increased access to health coverage, helped more unemployed workers weather the storm, prevented evictions, shored up the child care system, prevented many child care programs from going out of business, and ensured that state, local, territory, and tribal governments had sufficient funding to stave off deep budget cuts that could have further slowed the economy and harmed people and communities. Some of these **policies have proven effective at combatting problems that long predated the pandemic and point the way to policy advances the nation should adopt [policy] on an ongoing basis.**

## Extensions

## OV

**SCOTUS is meant to make moral decisions: uninfluenced by the prez and Senate, as independent and countering the other branches' abuses. Aff misinterprets this...**

### **Framework: Good Governance**

- 1] Baseline requirement for any framework: human rights and informed policies is important for effective government
- 2] U.S. tries to achieve effective government, thus applying this framework for the topic specifically, involving an independent Court and speedy decisions

## **C1 – Independent Court**

Justices will be influenced by the President, always ruling in favor of the ppl employing them to secure their next term in office or future retirement benefits – rather than making the correct decision. The Court will forever be in deadlock. No Justice will work with opposing political party, creating an illegitimate and ineffective court. The impact is structural violence/rights violations: Justices bound to party politics will not reflect in moral laws.

**Take racial segregation: government pressure was not enough for the independent court to support equal rights.**

## **C2 – Inefficiency**

Time is wasted from i1] the predictability of term limits and i2] more nominations needed for approval. There's just more room for party politics to get in the way, like Senate filibusters and blocked votes.

This results in the WHOLE government (prez and congress included) diverting attention from policy that actually matters: poverty. Cuz they're too busy arguing over which Justice to appoint

We need to continue with more broad policies in general to solve the hardships that millions of Americans still face, proven to work historically in helping many.

# Extra Analytics for Rebuttals / Extensions

This isn't about left or right political parties, but a stable court system.

- Point to a few recent events in judicial confirmation process??
- McConnell sidelined everyone / hypocrisy w/ Trump+Obama nominees.
- Everyone future = in jeopardy constantly.

C1

An example is India's Supreme Court: Judges who have term limits are heavily influenced by their future ambitions, resulting in lack of judicial independence

C2

The predictability of term limits will only incentivize Justices and politicians to play more tricks

**Judge Wilkinson 21.** The writer is a judge on the U.S. Court of Appeals for the 4th Circuit. III, J. Harvie Wilkinson. "Opinion | Supreme Court Term Limits Wouldn't Solve Anything." The Washington Post, WP Company, 17 Oct. 2021, <https://www.washingtonpost.com/opinions/2021/10/18/supreme-court-term-limits-wouldnt-solve-anything/>. 🌸 BZ

"In fact, in its survey of the existing literature on Supreme Court term limits, the Commission discovered few works arguing against term limits," the draft said. Let me help fill that void. **Eighteen-year terms**, however spaced and staggered, **will** cure none of the faults and only exacerbate the **weak[en]**nesses that critics perceive in **the modern court**. They will make the institution appear more, not less, political in the eyes of the public. **Confirmation battles will become more numerous** but no less feverish, because **18 years** is long enough to inflame partisan confirmation passions, especially if the court is closely divided. **The change would leave[ing] the court shorthanded too often**, if confirmation delays set in. That risks leaving the court with an even number of eight members, hardly **an ideal** composition for any institution predicated on majority rule. And the certainty that a seat will become vacant when the clock chimes the magical hour will only make the court the subject of more continuing political parlor talk than it is already. **It is easy to imagine the strategic games** the **justices** may be tempted to **engage[ing] in [strategic games]**, smuggling through such-and-such a precedent — or overruling it — before so-and-so leaves the bench. While the proponents of term limits envision a smooth and orderly opening of vacancies, what happens when a justice dies or strategically retires before the expiration of his or her term?



## Neg Blips

# Term Limits = Unconstitutional

## **Term limits are fundamentally unconstitutional**

**Marcum 20, governance.** Anthony Marcum is a fellow for the Governance Project at the R Street Institute. Marcum, Anthony. "Supreme Court Term Limits Would Increase Political Tensions around Justices, Not Ease Them." USA Today, Gannett Satellite Information Network, 13 Oct. 2020, <https://www.usatoday.com/story/opinion/2020/10/13/scotus-term-limits-political-temperature-even-higher-column/5873219002/>. 🌸 BZ

**Terms limits are unconstitutional** Here is the gist of most plans: Supreme Court justices will serve staggered, 18-year terms, which will provide two vacancies each presidential term. The logic goes that once these vacancies become structured and routine, the political heat around these vacancies will dissipate. As mentioned above, the first problem is that such a plan is unconstitutional. Article III says that federal judges "hold their offices during good behavior." This is universally understood to mean[ing] that federal judges have life tenure. As a result, to enact term limits, it is necessary to amend the Constitution. Aha! Some term limit proponents say. There is a workaround to this pesky constitutional obstacle. Some suggest that Article III's description of "office" to mean any judicial office, not necessarily the Supreme Court. Therefore, once a justice's 18-year term is up, a justice may retire or choose to continue serving on a lower federal court. This proposal, too, runs afoul of the Constitution. Article III [It] makes a firm distinction between "supreme" and "inferior" courts. While the Constitution dictates "one supreme Court," it gives Congress much more flexibility to "ordain and establish" other, lower federal courts. Similarly, Article II sees the two offices differently. Under Article II, Section 2, the president has the power to nominate "Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States." Federal circuit and district judges fall under the "other Officers" title. This deliberate bifurcation suggests that the two judicial "offices" are quite different and have separate[ing] constitutional roles. Therefore, it is suspect that a justice can be compelled to abandon their seat by statute and take a lower judicial position once their 18-year term is up. If that were the case, Congress could easily remove the Chief Justice at any time and force him to become the ambassador of Denmark.

## **Constitutional norms are UNIQUELY important: changing it out of partisan interest undermines law and creates general instability**

**Chafetz & Pozen 18, Law Professors.** Josh Chafetz Cornell Law School, [jc2284@cornell.edu](mailto:jc2284@cornell.edu) David E. Pozen Columbia Law School, [dpozen@law.columbia.edu](mailto:dpozen@law.columbia.edu) | Chafetz, Josh, and David Pozen. "How Constitutional Norms Break down - Scholarship.law.columbia.edu." Columbia Law School | Scholarship Archive, 2018, [https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=3650&context=faculty\\_scholarship](https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=3650&context=faculty_scholarship). 🌸 BZ

Even so, one might believe that there are important general advantages to norm stability. Norm stability could be defended, for instance, on Burkean grounds. In Anthony Kronman's telling, Burke subscribed to "the ancient ... idea that the past has an authority of its own which, however circumscribed, is inherent and direct rather than derivative."<sup>62</sup> The mere existence of a norm, on this view, provides a presumptive reason to preserve it. Sounding a Burkean note, leading theorists of constitutional conventions have suggested that deviating from them amounts to "a breach of 'constitutional morality'"<sup>63</sup> or a failure of "institutional citizenship."<sup>64</sup> Related to the Burkean rationale might be an Oakeshottian one, or the idea that the rejection of prevailing rules in favor of something "better" represents a form of epistemic hubris, one that mistakenly applies abstract reasoning when practical reasoning is called for and thereby threatens to bring on a much worse state of political affairs.<sup>65</sup> One might accordingly assume that, all else equal, more norm instability is clearly worse than less norm instability and that norm destruction is clearly worse than norm decomposition. Norm destruction can upend settled behavioral patterns quickly and dramatically, as in the case of President Roosevelt's third term. Norm decomposition occurs relatively quietly and incrementally-indeed, those who are reinterpreting the norm will tend to deny that any change is occurring-and thus the damage to constitutional expectations and small-c conservative values may be relatively modest. This is not wholly off base. We do not dismiss the content-independent rationales for norm stability, nor do we deny that there are good reasons to be concerned about norm destruction. Such concerns may be especially acute when it appears that a norm is being undermined out of narrow personal or partisan self-interest.



## Implementation Problems

**Aside from being unconstitutional, term limit policy itself passing is very unlikely**

**Erskine 22.** She focused on making consumer protection law concepts accessible in plain English. Ellena holds a bachelor's degree from Smith College, where she studied English and legal theory. Erskine, Ellena. "Term Limits for Justices Gain New Attention, but Prospects for Passage Remain Dim." SCOTUSblog, 6 Sept. 2022, <https://www.scotusblog.com/2022/08/term-limits-for-justices-gain-new-attention-but-prospects-for-passage-remain-dim/>. 🇺🇸 BZ

Still, even as momentum grows, **the prospects of the current Congress passing term limits remain dim.** President **Joe Biden** said as a candidate that he **opposes the idea, and Republicans have argued aggressively against** court **reform** proposals. Most term-limit proposals, including Whitehouse's bill, would establish an **18-year limit for justices' "active service" and set the regular appointment of two new justices in each presidential term.** At the end of an 18-year term, justices would move to a senior status — a move that technically would preserve the requirement in Article III of the Constitution that federal judges, including justices, "shall hold their offices during good behavior." The proposal thereby avoids the need for a constitutional amendment. The justice most recently moved to senior status would fill in if the number of active justices fell below nine.

**Recently, Legislation has been introduced to add term limits on Supreme Court justice – but this plan is most likely to fail in Congress due to a filibuster in the Senate.**

**Solender 21-** September 3<sup>rd</sup> 2021- Andrew Solender [ Senior news reporter covering politics for Forbes Maganize. Previously worked for MSNBC and attended Vassar College and the London School of Economics ] – " Democrats Introduce Bill Creating 18- Year Supreme Court Term Limits, Nominations Every Two Years" – [ <https://www.forbes.com/sites/andrewsolender/2021/09/03/democrats-introduce-bill-creating-18-year-supreme-court-term-limits-nominations-every-two-years/?sh=75301ea92d30>]

TOPLINE **A handful of House Democrats on Tuesday introduced long-shot legislation to fundamentally reshape the Supreme Court,** which comes amid pressure from progressives to take action over a recent Court decision that left in place a controversial Texas abortion law. KEY FACTS **The bill,** introduced by Reps. Ro Khanna (D-Calif.), Don Beyer (D-Va.), Barbara Lee (D-Calif.) and Rashida Tlaib (D-Mich.) **would create 18-year term limits** for Supreme Court justices, though it would not apply to justices currently serving. **The bill would also give presidents the ability to nominate a new justice every two years and require the Senate to act on each nomination within 120 days before the nominee is automatically seated.** There is debate among constitutional scholars as to whether such reforms require a constitutional amendment: Thomas Berry of the libertarian Cato Institute argues the term limits are a "close call" but the Senate deadline is "no doubt" unconstitutional. Beyer spokesperson Aaron Fritschner told Forbes the lawmakers are confident the bill passes constitutional muster in an "academic/legal analyst sense," but added that the Supreme Court, with its 6-3 conservative majority, could strike it down anyway: "There is an X factor on basically everything, obviously." Packaging the reforms as a bill, rather than a constitutional amendment, means it can pass with just a simple majority in the House – though **the bill would still be unlikely to pass the Senate,** where support from 10 Republicans is **needed to overcome the 60-vote filibuster threshold.** The legislation came just ahead of a Supreme Court decision on Wednesday allowing a Texas law banning nearly all abortions to stay in place while it's hashed out by lower courts, prompting outcry from Democrats and renewed demands to reform the Court. KEY BACKGROUND The bill's provisions are a direct response to recent maneuvering in Congress over Supreme Court nominations. Democrats are still smarting over Senate Republicans' refusal to consider now-Attorney General Merrick Garland when he was nominated for the Court in 2016, and over the swift confirmation of conservative Justice Amy Coney Barrett just a week before the 2020 election.

**The idea of 18-year term limits dates back to** a proposal from Duke University law professor Paul Carrington in **2005.** TANGENT Some Democrats are calling on 83-year-old liberal Justice Stephen Breyer to retire so that President Joe Biden can nominate his successor while Democrats hold the Senate. Breyer appears to be considering the move, telling the New York Times last month, "I don't think I'm going to stay there till I die — hope not,"

**Vote neg:**

**A] Reject the aff because its already failed –**

**The aff LITERALLY cannot pass because the senate has already deliberated and rejected it, and**

**B] Even if the plan is deliberated, its going to cause a filibuster, which delays debate and means the aff never gets passed.**

# Blocks

## Neg Examples – Term Limits BAD

### 1] Indian Supreme Court – appealing to federal government employers

**Kalantry 22, Professor of Law in India** Sital Kalantry is a clinical professor for Cornell Law School and a coauthor of several articles and a forthcoming book on the Supreme Court of India. [Kalantry, Sital. 05-11-2022, “The Unintended Consequences of Term Limits for Justices of the U.S. Supreme Court: Lessons from a Comparative Study of the Indian Supreme Court,” Seattle University Law School, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4087870](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4087870)] recut 🍷 BZ

Judges of the ISC are forced to retire at a relatively young age (sixtyfive) but they are not appointed until their late fifties.<sup>189</sup> This means they spend relatively little time on the ISC. An examination of judges who joined the ISC on or after April 2010 and retired on or before April 2021 finds that on average those judges spent less than five years on the ISC.<sup>190</sup> There are two problematic consequences that flow from early retirement and the short duration of service on the court. First, when judges retire at a relatively young age, they might pander to their future employer, which for the ISC judges, is the Indian Government There is evidence suggesting that this happens with some retiring ISC judges.<sup>191</sup> Second, the ISC [Indian Supreme Court] [has] is marked by doctrinal instability, which is, in part, due to the short tenure of judges (including the chief justice) of the ISC.<sup>192</sup> This doctrinal instability has a number of negative consequences.<sup>193</sup> A. Judges that Seek Post-Retirement Employment Pander to Future Employers There is a perception that ISC judges might favor the government when it is a litigant in order to secure a [government] job post-retirement. Indeed, the appointment of a former chief justice to the Rajya Sabha (The Upper House of Parliament)<sup>194</sup> recently sparked debate around independence of Supreme Court judges and brought to the forefront problems associated with the early retirement age for Supreme Court judges in India.<sup>195</sup> Empirical evidence also suggests that retiring judges do indeed pander to the government.<sup>196</sup> ISC judges retire at sixty-five, which is a relatively young age given life expectancy today. Many judges work past their retirement from the ISC. They likely work to occupy themselves with productive work, but also because they need to earn money to maintain the lifestyle they had when they were judges. An ISC justices salary is 2.5 lakhs (approx. US \$3,400 per month), but most of their compensation is in-kind. They are given a large residence in New Delhi.<sup>197</sup> However, after retirement, a judge on the ISC only receives a pension of 1.25 lakh (approx. US \$1,710) for each year he or she worked and does not receive a home.<sup>198</sup> Moreover, no housing is provided after retirement.<sup>199</sup> Thus, because the post-retirement benefits do not match the benefits while the person was a judge, he or she is likely to work after retirement from the Court to sustain him or herself. The Indian Constitution prohibits judges from returning to private practice.<sup>200</sup> This typically leaves two options for most retired ISC judges – take a job provided by the government or work as an arbitrator for disputes between large companies. While retired ISC judges are increasingly becoming arbitrators, the government remains a desirable post-retirement employer, because, along with a position, it provides a sprawling estate in the heart of New Delhi.<sup>201</sup> These estates are simply not available for purchase and may not be affordable even on a private arbitrator's salary. Today, there are even more government jobs available for retired judges than there were in the past with the growth of specialized tribunals and public commissions, some of which require that the members be former justices of the ISC.<sup>202</sup> Indeed, a significant number of judges do in fact take government jobs post-retirement.<sup>203</sup> A study has shown that of the last 100 ISC judges who retired as of February 12, 2016, seventy took post-retirement jobs. <sup>204</sup> Of those who accepted jobs after leaving the court, 36% of them took jobs offered by the Indian Government. Constitution over seventy years ago who had suggested that High Court and ISC judges should be prohibited from working in the government.<sup>207</sup> The lure of post-retirement government jobs and the problem it creates for judicial independence has also been of concern in the modern court. To remedy this problem, a former Chief Justice of India, Justice Lodha, proposed that three months before they actually retired, Supreme Court and High Court Judges be given the option to either receive full salary (minus other benefits) for ten more years after their retirement or receive a pension as fixed under the law.<sup>208</sup> Only those who agreed to receive a full salary could be eligible for government positions.<sup>209</sup> By providing them with a salary that matches their current salary, “[t]he idea is to insulate judges from the lure of post-retirement jobs. Judges don't have to run after politicians for lucrative posts after retirement if they get a salary while remaining on the panel,” according to Justice Lodha.<sup>210</sup> The most concrete evidence that ISC judges pander to the government is from an empirical study by Professors Aney, Dam, and Ko.<sup>211</sup> The study of all ISC decisions from 2010 to 2014 compares the behavior of judges who retired close to an election to the behavior of judges who retired when an election was farther away (i.e., sixteen months after their retirement date).<sup>212</sup> The study finds that judges are more likely to issue pro-government decisions when there is not likely to be government turnover immediately after their retirement.<sup>213</sup> In other words, their data proves that judges are more likely to issue pro-government decisions when there is less risk that the government might turnover in an election for a period of time after their retirement.<sup>214</sup> The study further found that ISC judges are less likely to rule in favor of the government when their retirement is closer to an election.<sup>215</sup> The study assumes that judges are uncertain about who the new government will be after an election and therefore, lack incentive to rule in favor of the existing government.<sup>216</sup> Thus, the authors found that judges are more likely to issue pro-government decisions if they retire farther away from an election than those who retire close to an election.<sup>217</sup> The effect identified by Professors Aney and his co-authors was even greater in important cases.<sup>218</sup> The study determined if a case was important based on whether the Attorney or Solicitor General was listed on the case and the number of Senior Advocates.<sup>219</sup> Most remarkably, the study found that judges who author favorable judgments in important cases are likely to receive prestigious government jobs.<sup>220</sup> This suggests that the early retirement age has created incentives for decisions in favor of the government, which thereby compromise[ing] es judicial independence.<sup>221</sup>

### 2] US State Supreme Courts – appealing to the majority rather than making moral decisions

**[Professor] Graves et al. 10.** “Recess appointee” replaced with “term-limited judge” – “ - recess appointed Courts of

Appeals judges during their temporary appointment tenure...” Legal Studies Paper. Graves, Scott E., et al. “Judicial Independence: Evidence from a Natural Experiment.” SSRN, 17 July 2010, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1641471](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1641471). 🍷 BZ

Specifically, Hall found that “state supreme court justices who have views contrary to those of the voters and the court majority, and who face competitive electoral conditions [&] will vote with the court majority instead of [not] dissenting on politically volatile issues” (Hall 1992, 428). While recess appointed judges will not have to confront the voting public electorate, existing research on court nominations, judicial behavior and judicial voting provides insight into how a recess appointee will behave. We assume that a recess appointee wants to be confirmed, and, accordingly, the “electorate” that the nominee would care about is the president and the Senate, since the president must still re-nominate the recess appointee and the Senate must confirm him. Research has shown that the median ideology of the Senate (Moraski and Shipan 1998) or even the partisan make up of the Senate (Epstein and Segal 2005) can be critical to confirmation as the president and Senate clash over the nominee, each seeking an ideological advantage in the separation of powers struggles (Yates and Whitford 1998). Thus, it is likely that the more liberal or Democratic the Senate, the greater the likelihood that a recess appointee would strategically vote in a liberal direction.

## AT Majoritarian Court

**The Court should be protected from public pressures, serving as impartial law-interpreters**

### **Gomez 22, public policy**

[He holds a degree in political science from the University of Central Florida and a master's degree in public policy from Liberty University. Gomez, Jorge. 09-23-2022, "Term Limits for Supreme Court Justices Defy the Letter and Spirit of the Constitution," First Liberty, <https://firstliberty.org/news/supreme-court-term-limits-defy-the-constitution/>] 🌸 BZ

The radical scheme to rig the U.S. Supreme Court in favor of the political Left continues. In addition to its brazen power grab via court packing, the party in power recently shifted its strategy. It introduced a bill to limit each Supreme Court justice's tenure to 18 years and give the president the power to select a new justice every two years. While this "**reform**" **at first may appear benign, it's nothing more than an attempt to cancel justices.** It's simply the Supreme Court Coup by a different name. It is packing—and effectively destroying—the Court, two years at a time. As more Americans hear about this dangerous proposal, we need to make one thing clear: term limits for Supreme Court justices defy the letter and spirit of the Constitution. **Life tenure for Supreme Court justices has worked well for more than 230 years and is an essential component to ensure judicial independence. Judicial term limits would destroy one of the hallmark features built into our system of government.** To better understand this, we turn to Alexander Hamilton's argument in Federalist No. 78, the prime defense of judicial tenure at the time of America's Founding. Hamilton writes that judicial independence "can certainly not be expected from judges who hold their offices by a temporary commission." He described a judiciary that serves with life tenure under good behavior as "certainly one of the most valuable of the modern improvements in the practice of government." According to Hamilton, **we want judges serving with life tenure because this is "the best expedient which can be devised in any government, to secure a steady, upright, and impartial administration of the laws."** In other words, **lifetime judgeships help ensure the law is administered in predictable and equal ways.** Writing in National Review, Hillsdale College Professor Adam Carrington explained: **"People may not always think right in the short term. They may have prejudices against a person under trial or one seeking justice. To be sure, history is rife with examples of public pressure causing congressmen and presidents to cave when their principles told them better..."** With essentially **life tenure, the justices—at least partially—are insulated from this pressure.** They can discharge their duties and apply the law equally to popular and unpopular litigants." Federalist 78 also includes a warning: **Taking away life tenure and allowing judges to be influenced by public pressure—what Hamilton refers to as the "occasional ill humors in the society"—would quickly upend the rule of law.** Doing so would destabilize the separation of powers and possibly destroy our precious constitutional system.



## **AT Accountability**

### **OV: ACCOUNTABILITY IS OUT OF THE QUESTION – THE ONLY PEOPLE THE AFF MAKES JUSTICES ACCOUNTABLE TO IS THE PRESIDENT AND MESSY POLITICS**

1] Our contention 1 on Independence turns: term limits only cause Justices to be influenced by the government, not the people. Justices have to pander to their employer to be reinstated or get retirement benefits, making corrupt decisions rather than moral ones, hurting accountability

2] Our contention 2 on Inefficiency turns: constant re-appointments of Justices leaves no time to pass real policy, meaning people don't get the policy or outcomes they deserve

3] Their only link is through the president: they don't even guarantee that people's views are expressed, because a president basically does whatever they want to do once elected. Politicians don't care: look at George H. W. Bush promising "no new taxes", then immediately taxing people

Also, we're assuming the president was elected by popular vote in the first place: controversial politicians have been elected into office despite the protest of everyone else, hence no proper representation anyways

## AT: Legitimacy

### **1] Supreme Court term limits causes rulings to be overturned and reinstated by each new panel – constant upheaval undermines the court’s legitimacy derived from finality**

**Sundby and Sherry 19** Christopher Sundby of Gelber Schachter & Greenberg. Former clerk for US Court of Appeals and National Institute of Justice Graduate Research Fellow and Suzanna Sherry is faculty at Vanderbilt Law, “Term Limits and Turmoil: Roe v. Wade’s Whiplash”, Texas Law Review, 2019, <https://texaslawreview.org/wp-content/uploads/2019/11/Sherry.Printer.pdf>

Proposals for term limits for Supreme Court Justices have gained renewed traction as a possible way to solve the counter majoritarian difficulty, depoliticize the Court, and reinvigorate the Court’s legitimacy. While not discounting the possible benefits of **term limits**, **this study has asked whether a term-limit regime might also lead to greater legal instability. The study’s results reveal the proposal’s substantial potential to destabilize important constitutional precedents and to change the way that constitutional jurisprudence evolves by pushing it away from gradual shifts and towards more sudden jolts.** But how likely is it that term limits would in fact have such an effect? Having explored a variety of options, we can now consider the most likely scenario. As noted earlier, the trend seems to be toward nominating Justices with a high degree of loyalty and little if any willingness to defer to precedent.<sup>109109</sup>One recent study supports our assessment of these variables. The study suggests that presidential interest in the Court is increasing, the cost of finding ideologically reliable candidates is decreasing, and that the composition of the Court is therefore swinging toward Justices whose decisions reliably align with the politics of the nominating president. Assuming that we are accurate in assessing the Senate’s influence as moderate—especially given the current absence of a filibuster, which does slightly decrease the Senate’s influence—the model that best captures these three variables (high loyalty, no deference, moderate Senate influence) is Model 2, illustrated by Figure 2 on page 142 and reproduced below for the convenience of the reader. Figure 2. The odds of the Supreme Court overturning Roe v. Wade between 1973 and 2019 with more loyal Justices. The horizontal line marks the cutoff between the Court being more or less likely to overturn Roe v. Wade. This model has a substantial detrimental effect on doctrinal stability. **A term-limited Court not only changes its collective mind on abortion three times in forty-six years, but also produces extreme swings with a high likelihood of reversal. Such a level of constitutional zigzagging has never been seen in the Court’s history.** Such instability could produce a number of deleterious effects. The lack of doctrinal stability might be replaced with a different type of predictability. Even in the absence of the typical in-between cases signaling change, outcomes may actually become more predictable. However, litigants would turn to reading the tea leaves of the Court’s composition rather than looking to past precedent for guidance. This change also affects the time horizon of predictability. A case can swing from a sure winner to a sure loser over the course of a single election. This could have a drastic effect on litigants who often have to wait years before their cases reach the Supreme Court and may affect whether they decide to bring cases at all. Perhaps most damaging, it is unclear how frequent swings would affect enforcement of Supreme Court decisions as lower courts react to sudden ideological changes in Court majorities. The lower courts’ reactions might be exacerbated by the fact that instability and doctrinal swings could also open up a Pandora’s box of retroactivity and legitimacy issues. In general, new constitutional rules of criminal procedure “do not apply retroactively to cases on collateral review, but new substantive rules do.” If, for example, either a woman or her doctor were to be criminally convicted under a law banning abortion during an era when Roe v. Wade was not in effect, this conviction should be overturned under Montgomery following Roe’s reinstatement. **If the precedent is repeatedly overturned and reinstated, however, lower courts and policy makers could decide to simply ignore the Supreme Court’s decision, counting on a reversal after subsequent elections. In other words, the Supreme Court could lose** perhaps its most valuable asset, **finality, which could result in increased defiance of its decisions and reduced legitimacy.**

### **2] Supreme court legitimacy has dipped before, but consistently recovers**

**Amelia Thomson-DeVeaux and Oliver Roeder 2018**, Amelia Thomson-DeVeaux is a senior writer for FiveThirtyEight. Oliver Roeder was a senior writer for FiveThirtyEight. He holds a Ph.D. in economics from the University of Texas at Austin, where he studied game theory and political competition, “Is The Supreme Court Facing A Legitimacy Crisis?”, FiveThirtyEight, 10/01/2018, <https://fivethirtyeight.com/features/is-the-supreme-court-facing-a-legitimacy-crisis/>

Since then, though, the nominees have grown significantly more divisive, culminating with the narrow confirmation of Justice Neil Gorsuch, who received only 54 votes last year. The rancor around Gorsuch’s nomination was, of course, amplified by Senate Majority Leader Mitch McConnell’s decision to block the confirmation of Merrick Garland, then-President Barack Obama’s selection to fill the seat vacated by the

death of Justice Antonin Scalia, leaving Democrats deeply embittered about the process. It's difficult to say that these rising tensions have caused the decline in the Supreme Court's favorability, but they have certainly stripped the nomination process of any pretense that potential Supreme Court justices' political views are secondary to their qualifications as judges or legal scholars. Meanwhile, the court itself has moved right under Roberts even without having a strong conservative majority, which means the addition of Kavanaugh or another Trump appointee could result in opinions that are significantly to the right of mainstream public opinion. **That being said, the Supreme Court has weathered serious controversies before** — including episodes that are quite similar to what we've seen with Kavanaugh. In 1991, Clarence Thomas's nomination process was brought to a screeching halt by sexual harassment allegations from law professor Anita Hill, who was called before the Senate to testify. Thomas was eventually confirmed to the court, where he continues to serve as an associate justice. **The country was deeply divided about the hearings and the outcome, and the percentage of Americans who said they had "a great deal" or "quite a lot" of confidence in the court slipped from 48 percent in February 1991 to 39 percent in October 1991. It took several years for public opinion to recover, but it was back at 50 percent in 1997.** Surprisingly, there was no dip in confidence after the court's ruling in *Bush v. Gore* in 2000, when the justices voted to end a recount in Florida, effectively deciding the presidential election in favor of George W. Bush. At the time, it seemed possible that the vote — which pitted five conservative-leaning justices against four liberals — would create an indelible impression of the court as a partisan body. But 50 percent of Americans still said they had "a great deal" or "quite a lot" of confidence in the court in 2001 — an increase of 2 percentage points over the year before. **These episodes might suggest that the court is fully capable of recovering from the unfolding political firestorm** over Kavanaugh, even if he is eventually confirmed and takes his seat as the ninth justice. But they also may have helped drive its long-term decline. The reality is that today, Americans' confidence in the Supreme Court is weaker than it was 20 years ago. Americans may no longer be willing to give the court the benefit of the doubt.

## **Legitimacy is resilient – controversial decisions have withstood criticism for centuries**

**Bloom 21** Lackland Bloom (Larry and Jane Harlan Senior Research Fellow and Professor of Law, Dedman School of Law, Southern Methodist University), "Lawyers' Work": Does the Court Have a Legitimacy Crisis?, 52 ST. MARY'S L.J. 285 (2021). Available at: <https://commons.stmarytx.edu/thestmaryslawjournal/vol52/iss2/2>

Does the Court presently have a legitimacy crisis? Probably not. **Diffuse support for the Court remains strong despite anguished cries of illegitimacy from those disappointed with changes in the Court's membership and those anxious about the Court's future direction.**<sup>404</sup> History indicates that controversial decisions that affect persons classified as elite do not negatively impact public respect for the Court. However, there cannot be multiple decisions over a relatively short period. The **strength of that diffuse support is illustrated by the fact that most of the public rejects many significant constitutional doctrines and decisions of the Court over the past several decades.** The rejected decisions of the Court include protection of **abortion rights** beyond the first trimester,<sup>405</sup> the use of racial preferences in **college admissions** to achieve diversity in the student body,<sup>406</sup> expanded protection for criminal defendants,<sup>407</sup> the **prohibition of prayer** in the public schools,<sup>408</sup> protection of flag burning under the First Amendment,<sup>409</sup> judicially imposed limitations on the death penalty,<sup>410</sup> and the ability of municipalities to take private property and convey it to a private developer.<sup>411</sup> Even more significantly, the fact **Bush v. Gore**, criticized by elites as one of the most illegitimate decisions of all time, **had no long-term impact** on diffuse support for the Court is testimony to the depth of that support. **Indeed, the Court seems to be all but bulletproof. All this suggests is current cries of illegitimacy are unlikely to shake public support for the Court. There** is some research suggesting that, at least with respect to salient decisions inconsistent with public attitudes, backlash against the decisions will fade over time resulting in public acceptance.<sup>412</sup> The extent the public remains in disagreement with so many major decisions from the nineteen fifties, sixties, and seventies would seem to undermine this thesis. This will **especially be true with respect to technical legal decisions of little interest to the general public.**

## AT Democrat Court

### **Democrats aren't going to win. Future court appointments/approvals will be left to a Republican Senate**

**Millhiser 22** [Ian is a senior correspondent at Vox, where he focuses on the Supreme Court, the Constitution, and the decline of liberal democracy in the United States, 12/21/22, Sotomayor and Kagan need to think about retiring, Vox, <https://www.vox.com/policy-and-politics/23507944/supreme-court-sonia-sotomayor-elena-kagan-ruth-bader-ginsburg-retire>]

Barring extraordinary events, Democrats will control the **White House** and the **Senate** for the **next two years**. They are unlikely to control it for longer than that. The **2024 Senate map is so brutal for Democrats that they would likely need to win a landslide** in the national popular vote just **to break even**. Unless they **stanch the damage** then, some **forecasts suggest** that **Democrats won't have a realistic shot at a Senate majority until 2030 or 2032**. And even those forecasts may be too optimistic for Democrats.

If Sotomayor and Kagan do not retire within the next two years, in other words, they could doom the entire country to live under a 7–2 or even an 8–1 Court controlled by an increasingly radicalized Republican Party's appointees.

**Senate** Republicans have made it perfectly clear that they **view Supreme Court seats as a political prize that goes to the party that controls both the White House and the Senate**. In 2016, when Justice Antonin Scalia's death created a Supreme Court vacancy during Obama's final year in office, Republicans invented a new rule claiming that a vacancy that opens in an election year should be filled by the "next president." They abandoned that made-up rule as soon as it was inconvenient for them, racing to confirm Trump nominee Amy Coney Barrett the week before voters cast Trump out of office.

#### **Implications:**

- 1] This means you vote neg since Republicans will be appointing Justices inevitably whether we have term limits or not: the question is whether justices are going to make moral choices or partisan ones. Crossing the isle will be significantly harder under a system where a Justice is expected to vote along party lines to keep their job**
- 2] The Democrat-appointed justices can stay in longer rather than immediate term limits removing them**

## AT Abortion / ROE Overturning

**TODAY, reversing precedent within the Supreme Court is extremely rare.**

**Schultz 21** Schultz, David. "The Supreme Court Has Overturned Precedent Dozens Of Times, Including Striking Down Legal Segregation And Reversing Roe." The Conversation. June 30, 2021. Web. February 13, 2023. <<https://theconversation.com/the-supreme-court-has-overturned-precedent-dozens-of-times-including-striking-down-legal-segregation-and-reversing-roe-185941#:~:text=When%20is%20precedent%20overturned%3F,or%20by%20changing%20social%20conditions.>>

Reversing precedent is unusual **The Supreme Court rarely overturns its past decisions or precedents.** In my book, "Constitutional Precedent in Supreme Court Reasoning," I point out that **from 1789 to 2020, there were 25,544 Supreme Court opinions and judgments after oral arguments. The court has reversed its own constitutional precedents only 145 times – barely 0.5%.** The court's historic periods are often characterized by who led it as chief justice. From 1953 until 2020, under the successive leadership of Chief Justices Earl Warren, Warren Burger, William Rehnquist and now John Roberts, the court overturned constitutional precedent 32, 32, 30 and 15 times, respectively. That is well under 1% of decisions handled during each period in the court's history.

**Term limits create greater instability, proven with simulations on Roe**

**Sundby & Sherry 19, law review:** Sundby, Christopher, and Suzanna Sherry. "Term Limits and Turmoil: Roe v. Wade's Whiplash." Texas Law Review, 27 Nov. 2019, <https://texaslawreview.org/term-limits-and-turmoil-roe-v-wades-whiplash/>. 🍁

As Figure 1 below shows, even for moderately loyal Justices the results are striking: Roe v. Wade would very likely suffer legal whiplash. A greater than 70% chance exists that **Roe would be overturned in 1987** (and an 87% chance in 1989), a 65% chance that Roe would then be **reinstated in 2009, and** a 55% chance that it would be **re-overturned in 2017** following the Republicans winning the White House. In other words, **a term-limit system could have dramatic implications for the Court's zigzagging, with the Court's stance on Roe reversing three times in only forty-six years.**

**1] Aff's term limits are worse for society because of an uncertain future filled with partisan politics: nobody will be moderate and will either be for or against abortion, rather than focusing on interpreting the Constitution and making moral decisions.**

**2] Judicial Independence solves: people will become cynical, and ignore a heavily politicized & term-limited court – just like today's Presidential mudslinging. Citizens will no longer fight for reform, which is bad for confidence in the government system and any future action**

**3] AND, Court and societal inefficiency turns the Aff: if America can't make decisions quickly and are caught up in the nominations themselves, no decision on Roe will ever happen again so we'll be forever stuck.**

## AT Climate

**US climate change prevention policy is resilient – Joe Biden and the most recent ev proves.**

**The Japan Times 22.** Sources with an AllSides Media Bias Rating of Center either do not show much predictable media bias, display a balance of articles with left and right biases, or equally balance left and right perspectives. “U.S. Election Outcome Unlikely to Impact Climate Change Fight, Experts Say.” The Japan Times, 12 Nov. 2022, <https://www.japantimes.co.jp/news/2022/11/12/world/science-health-world/joe-biden-us-climate-policy-midterm-elections/>. 🇺🇸 BZ

WASHINGTON – Despite Republicans’ gains in the U.S. midterm elections this week, they are unlikely to knock President Joe Biden’s existing climate policies off course, experts say, highlighting the importance of individual state regulations. Biden arrived at the COP27 global climate meeting in Egypt less weakened than he might have been if the Republicans’ much desired “red wave” had materialized in Congress, but with the balance of power still in limbo as counting continues. Biden urged the world to “renew and raise our climate ambitions,” and said the passage earlier this year of a massive \$369 billion spending package to green the United States economy should be an example for the entire world. The United States is the world’s second-biggest emitter of harmful carbon emissions, and the passage of the landmark spending bill was seen as a significant boost to its renewable energy push. Conservative Republican lawmakers, who are traditionally less favorable to the fight against climate change, voted against the bill. With 209 seats won in this week’s election so far, Republicans appear poised to secure a slim majority in the 435-seat House of Representatives, with control of the Senate still unknown. Whatever the final result, the Republican[s are] party is not in a position to backtrack on the legislation or other similar bills, due to the lack of the majority necessary to override a presidential veto. Nathaniel Keohane, president of the Washington-based Center for Climate and Energy Solutions think tank and a former climate adviser to Barack Obama, said that Republicans taking control of both houses would be “the worst case for the climate.” However, even if this happened and they “try to push back against what’s been done, there would be very limited success,” he said. “Even if they only control one chamber, they can pursue hearings and oversight and investigations to try to make the administration look bad, but they are limits, even there, in terms of how far they could go over the next two years,” said Barry Rabe, an environment policy specialist and University of Michigan professor.

### **Warming doesn’t trigger extinction**

- peer-reviewed journal shows IPCC exaggeration
- history proves resilience
- no extinction- warming under Paris goals
- rock breaking strategy could offset warming

**IBD 18** [Investors Business Daily, Citing Study from Peer reviewed journal by Lewis and Curry, “Here’s One Global Warming Study Nobody Wants You To See”, 4/25/18, <https://www.investors.com/politics/editorials/global-warming-computer-models-co2-emissions/>]

Settled Science: A new study published in a peer-reviewed journal finds that climate models exaggerate the global warming from CO2 emissions by as much as 45%. If these findings hold true, it’s huge news. No wonder the mainstream press is ignoring it.

In the study, authors Nic Lewis and Judith Curry looked at actual temperature records and compared them with climate change computer models. What they found is that the planet has shown itself to be far less sensitive to increases in CO2 than the climate models say. As a result, they say, the planet will warm less than the models predict, even if we continue pumping CO2 into the atmosphere.

As Lewis explains: "Our results imply that, for any future emissions scenario, **future warming is** likely to be **substantially lower than** the central computer **model-simulated** level **projected by** the (United Nations Intergovernmental Panel on Climate Change), and highly unlikely to exceed that level.

How much lower? Lewis and Curry say that **their findings show temperature increases will be 30%-45% lower than the climate models say**. If they are right, then **there's little to worry about**, even if we don't drastically reduce CO2 emissions.

The **planet will warm** from human activity, but **not nearly enough to cause** the sort of **end-of-the-world calamities** we keep hearing about. In fact, the **resulting warming would be below the target** set at the **Paris agreement**.

This would be tremendously good news.

The fact that the Lewis and Curry **study appears in** the peer-reviewed **American Meteorological Society's Journal of Climate** lends credibility to their findings. This is **the same journal**, after all, that recently **published** widely covered **studies saying** the Sahara has been growing and the **climate boundary in** central **U.S. has shifted 140 miles to the east because of** global **warming**.

The Lewis and Curry findings **come after another study**, published **in the** prestigious **journal Nature**, that **found the long-held view that a doubling of CO2 would boost global temperatures as much as 4.5 degrees Celsius was wrong**. The **most temperatures would likely climb is 3.4 degrees**.

It also follows a **study published in Science**, which found that **rocks contain** vast amounts of **nitrogen that plants could use to** grow and absorb more CO2, potentially **offsetting** at least some of the effects of **CO2 emissions and reducing future temperature increases**.

## AT 0-yr Term Limits

### **1] Despite ups and downs, the Supreme Court is necessary to check government and resolving major disputes**

**Mikulis 18.** Rick Mikulis is a senior management and government and politics major. Mikulis, Rick. "We Shouldn't Abolish the Supreme Court." The Diamondback, 31 Dec. 2018, <https://dbknews.com/0999/12/31/arc-oandsq37zn3xnwsk4hi2epuk4/>. 🌸 BZ

This op-ed categorically ignores the majority of work done by the Supreme Court and the disastrous results of such an ill-conceived idea, while misunderstanding the purpose of the small amount of responsibilities that the author chooses to mention. The Supreme Court, while it may have flaws, should absolutely not be abolished. Allow me to first begin by explaining a few fundamentals about our highest court, as established in Article III of the Constitution. Without the Supreme Court, we lose a crucial third of our federal system of checks and balances. Without the Supreme Court, there is no one to hear appeals from each of the 13 Circuit Courts. Without the Supreme Court, suits between states can not be heard. The United States is a common law country: The majority of our [U.S.] law is unwritten, based on the results of court cases, rather than from civil law passed by our legislature. When there is a debate about conflicting common law between states that affect issues on a national level, it is essential that we [need] have a body prepared to hear the arguments and deliver a verdict. Without the Supreme Court, we lose the ability to operate an effective government. Now, to address some of the vagueries presented in the aforementioned op-ed. The author believes that the Supreme Court simply decides what should and shouldn't be law, apparently as part of some grand plan by these "lawyer-king imbeciles," as he describes them. At best, this is some sort of perversion of legal positivism (law is based in legislators' beliefs, regardless of ethical justification) and at worst it is a cynical and inaccurate understanding of legal theory. The biggest point the author offers is about the Supreme Court's supposed inconsistency, as if overturning a 74-year-old ruling about Japanese internment camps represents being indecisive. What he misses is that the Court does not dictate law for the nation for everyone to follow. Rather, the truth is closer to legal realism, wherein laws and rulings from the Supreme Court come from social and public interests. The Court overturned its previous rulings because the country changed perspective over a long period of time, not because the Court couldn't decide what it wanted the law to be. The author of the piece also misunderstands the idea of judicial review. The Supreme Court uses judicial review to determine the constitutionality of legislative and executive action, not to "overturn particularly unpopular laws." Consider, for example, United States v. Lopez, through which the Supreme Court declared the Gun-Free School Zones Act of 1990 to be unconstitutional. None of the justices in the majority opinion believed that guns should be in schools; they correctly defined the extent of the federal government according to the Constitution, and where the states' responsibilities began. There is always room for improvement with our process. And it's fine to be unhappy with rulings the Supreme Court has made, or the appointment of certain justices. But suggesting to get rid of one of our three branches of government on the national level is irrational and lacks basis in a cogent argument.

### **2] The court is supposed to be anti-majoritarian to protect the rights of minorities – the job of Congress and the President is the opposite**

### **3] "Term limit" restricts the number of years a Justice may serve – specifically to 18 years, because according to**

**Buchanan 20, Senior Director.** Senior Director and Senior Legal Fellow, Women's Initiative. Buchanan, Maggie Jo. "The Need for Supreme Court Term Limits." Center for American Progress, 3 Aug. 2020, <https://www.americanprogress.org/article/need-supreme-court-term-limits/>. 🌸 BZ



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.<sup>10</sup>

**This definition is both realistic and fair for the debate, as all debaters who did research would come in with an accurate understanding that 18 years is basically universal consensus.**

**4] Setting term limits to zero doesn't mean the Court is dissolved, nor even peacefully. Spills over to greater issues, as there are still court responsibilities delegated in both policies and the constitution, resulting in nowhere to send various legal issues and chaos taking over the country as nobody can resolve intense national legal issues**

**[Prog] Predictability is key to fairness and substantive debate is key for education. The Aff is neither predictable to enable an in-depth debate about what ppl research, nor does it engage with the topic for educational purposes. Vote them down to deter them in the future. Competing interps since topicality is either yes/no, and no RVI's: baiting theory and purposefully being uneducational.**

## AT Age Limits – Lay + Others

### **1] The aff isn't defending the topic: term limits are to be distinguished between age limits**

**Metzger & Griffiths 22.** Politics reporters. Metzger, Bryan, and Brent Griffiths. "There's Overwhelming Support for an Age Limit on the President and Congress. Here's Why That Won't Happen Anytime Soon." Business Insider, Business Insider, 26 Sept. 2022, <https://www.businessinsider.com/congress-term-limits-age-gerontocracy-old-lawmakers>. 🌸 BZ

In the absence of an age cap, term limits offer another potential solution, though that too would require going through the arduous constitutional-amendment process. The history of the contemporary movement for term limits largely dates back to the early 1990s, when dozens of states enacted term limits not just for their own legislatures but for their federal representatives in Washington. Former House Speaker Newt Gingrich made the idea a core pillar of his "Contract with America" in 1994, and a majority of House members even voted 227-204 for a constitutional amendment that would have imposed 12-year limits on members of Congress — six two-year terms for House members, two six-year terms for senators — though that fell short of the necessary two-thirds majority necessary to begin the process. That same year, the Supreme Court — which has no age or [term] service limits — ruled that states couldn't impose requirements on their representatives that are more strict than those laid out in the Constitution, overturning federal term-limit laws passed by 23 states. Nonetheless, the idea continues to have significant currency on the right, including some daring conservatives who in fact hope to hold a constitutional convention for those very purposes. Sen. Josh Hawley of Missouri, 42, (right) turns toward Sen. Tom Cotton, 45, of Arkansas during a July hearing on Capitol Hill. The two lawmakers are the youngest Republican senators. Anna Moneymaker/Getty Images Republican Sen. Josh Hawley of Missouri, the Senate's second-youngest member, at 42, suggested that term limits could ameliorate concerns about aging public servants. "I think that would do it," he told Insider. "You know, once you've served two or three, especially three, terms in the Senate, that's a long time." While Republicans, generally antagonistic toward the federal government, have generally been quick to affirm their support for the idea, [I] Democrats have not. But if frustration with gerontocracy continues to mount, there's some evidence that the idea could gain broader support within the party. "Put it this way: I'm a little more interested in term limits than age limits." Democratic Rep. Jamie Raskin of Maryland told Insider. He noted the existence of term limits on the presidency, while quipping that his openness to the idea might make him a "pariah" within the party. "There's a logic to term limits, because the principle of democracy is taking turns." Raskin, 59, said.

**Therefore, vote them down because we can't even engage with the term limits topic at hand, ruining education and making it unpredictable and unfair for debate**

### **2] Older Judges have much more life experience – age limits destroy this benefit to the Court**

### **3] Mental health doesn't only affect the elderly – anybody may experience it so non-unique**

## This a Policy Debate

**Term limits have important practical implications, hence is a debate about policy**

**Black & Bryan 17, political science professors**

. Prof. Black: Associate Professor, Department of Political Science, Michigan State University. Prof. Bryan: Assistant Professor, Department of Political Science, Loyola University Chicago. Black, Ryan C., and Amanda Clare Bryan. "The Policy Consequences of Term Limits on the U.S. Supreme Court." SSRN, 11 Feb. 2017, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2915011](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2915011). 🌸 BZ

This exploration is important for at least three reasons. First, it informs an important policy debate. As scholars and practitioners continue to wrestle with the question of whether justices should serve for a limited amount of time, the empirical implications of such a change will become increasingly relevant. Second, our data helps deepen scholars' understanding of the nomination and confirmation process of Supreme Court justices. Examining how presidents' choice of nominee and how Senate voting on that nominee would have changed during different political environments helps shine a light on the various political and strategic considerations each actor faces and demonstrates how those considerations play out over time. Finally, our general approach of bringing real data to bear on hypotheticals and historical counterfactuals can be employed to examine a number of proposals to reform both the judiciary and other American political institutions as well.

## **AT Must Remove SCOTUS right now cuz they're conservative**

**1] Non-UQ: Term limits still depend on the president appointing and Senate confirming, so it won't change the political climate**

**2] Term limits only start after current justices die/retire, cuz of their contract. So Aff has no immediate change**

**Marcum 20, governance.** Anthony Marcum is a fellow for the Governance Project at the R Street Institute. Marcum, Anthony. "Supreme Court Term Limits Would Increase Political Tensions around Justices, Not Ease Them." USA Today, Gannett Satellite Information Network, 13 Oct. 2020, <https://www.usatoday.com/story/opinion/2020/10/13/scotus-term-limits-political-temperature-even-higher-column/5873219002/>. 🍁 BZ

Finally, **term limits do not solve today's politicization. At best, it is a multi-decade plan to fully implement. Absent impeachment, today's justices cannot be forced off the Court.** And many of the Court's youngest jurists may serve for 30 years or more. And when a regularized vacancy process finally does roll into place, what is to stop the Senate from not confirming a nominee to fill the vacancy? Go further. With 18-year terms, what is to stop a Senate refusing to hear four years' worth of nominees, giving the next president potentially four open seats in just the first term? The Senate's recent refusal to consider Merrick Garland's 2016 nomination is just the groundwork for such shenanigans.

## AT Constitutional / Law Affs

### Term limits on justices are unconstitutional

**Gomez 22, public policy** [He holds a degree in political science from the University of Central Florida and a master's degree in public policy from Liberty University. Gomez, Jorge. 09-23-2022, "Term Limits for Supreme Court Justices Defy the Letter and Spirit of the Constitution," First Liberty, <https://firstliberty.org/news/supreme-court-term-limits-defy-the-constitution/>] 🌸 BZ

Unlike the other branches of government, Supreme Court justices are not elected by the people every two, four or six years. This was not an oversight. It was a deliberate decision. With life tenure, the Founders sought to ensure[s] justices would focus foremost on interpreting the law. It was a way to encourage their fidelity to the Constitution and the rule of law, instead of worrying about personal gain or what's best for them after they leave the Court. Carrington summarizes it well: "We're not looking for a mirror in the Court—we are looking for an anchor, one that will keep us moored to our commitments to the law, constitutional or otherwise." **Term limits for justices is also constitutionally suspect.** The "good behavior" clause of **Article III** of the Constitution—**stipulating that justices "hold their offices during good behavior"—is rightly understood from English common law as an appointment for life.** The term says what it means and means what it says. The judge may serve so long as he or she does nothing impeachable. When calling for judicial term limits, radicals are doing what they frequently do: playing fast and loose with the text of the Constitution.

### Term limits appeal to partisan interests – contrary to the Court's values of legal justices and law

**Carrington 22, Politics Professor**. ADAM M. CARRINGTON is an associate professor of politics at Hillsdale College. Carrington, Adam M. "No, We Don't Need Term Limits Placed on Scotus." National Review, National Review, 19 May 2022, <https://www.nationalreview.com/2022/05/no-we-dont-need-term-limits-placed-on-scotus/>. 🌸 BZ

Nor does Hiltzik give a convincing argument about how to impose **term limits**. He writes that the constitutionality of imposing a term limit on justices by statute was "open to question." But it **is not**. It is **blatantly unconstitutional**. The term **"good behavior" says what it means and means what it says. The judge may serve so long as he or she does nothing impeachable. Playing fast and loose with the text is exactly what we do not want justices — or anyone, for that matter — to be doing. A strong judiciary, one that will not bend to momentary will, is exactly what we need** at a time when arguing over abortion has caused much of the nation to take leave of its senses. **We need a majority that stands for the law as written, regardless of public opinion, or at least until that public opinion officially acts by changing the law.** Judicial term limits are against both the letter and the spirit of the Constitution — Americans would be wise not to fall for them.

## AT Supreme Court Capture

**Minority voice is important to democracy – term limits increase the chance for all Justices to be aligned with one party**

**Black & Bryan 17, political science professors.** Prof. Black: Associate Professor, Department of Political Science, Michigan State University. Prof. Bryan: Assistant Professor, Department of Political Science, Loyola University Chicago. Black, Ryan C., and Amanda Clare Bryan. "The Policy Consequences of Term Limits on the U.S. Supreme Court." SSRN, 11 Feb. 2017, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2915011](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2915011). 🌸 BZ

Finally, opponents fear that, as a practical concern, one political party who wins as few as four consecutive elections could "capture" the entire Supreme Court, making it unanimously liberal or unanimously conservative.<sup>50</sup> In the same way that a relatively even split between the two parties in Congress can act as an extra check on the legislative branch's power, or that divided government can check the executive's powers relative to the legislative branch's powers and vice versa, a relatively even ideological split on the Supreme Court ensures that no decision is made too easily and that, through dissents, minority voices are still represented even if they do not always prevail.<sup>51</sup> "Supreme Court capture" is far more likely when each president is guaranteed a certain number of seats and justices cannot help to safeguard their ideological wing by strategically retiring.<sup>52</sup>

**The law system will be damaged by the President and Congress, exchanging good governance for ideology**

**Marcum 20, governance.** Anthony Marcum is a fellow for the Governance Project at the R Street Institute. Marcum, Anthony. "Supreme Court Term Limits Would Increase Political Tensions around Justices, Not Ease Them." USA Today, Gannett Satellite Information Network, 13 Oct. 2020, <https://www.usatoday.com/story/opinion/2020/10/13/scotus-term-limits-political-temperature-even-higher-column/5873219002/>. 🌸 BZ

Eight Scalias or eight Ginsburgs Yet term limits would regularize the process, and in turn tie two Supreme Court seats to every presidential cycle. A single two-term president could pick 44% of the court. If two presidents of the same party served three or four consecutive terms, an overwhelming majority of the court would quickly be ideologically one-sided. In the span of only a few years, a court of eight Scalias could turn to eight Ginsburgs. Certainly, the chance for such a dramatic ideological shift in the highest court would only put a greater spotlight on it during presidential elections and judicial confirmations. The potential for ideological ping-pong on our highest court could also damage our common law system. The legal doctrine of stare decisis, Chief Justice Roberts wrote last year, "requires us, absent special circumstances, to treat like cases alike." He further explained the doctrine "is necessary to avoid an arbitrary [arbitrariness] discretion in the courts" and distinguishes judicial decision-making from the "political and legislative process." That process could quickly erode[s] in a term-limited court. Even-handed and predictable legal results is an attribute, not a defect. Some laws are bad, but they should be changed by lawmakers. And a warning for those who wish to dramatically change public policies in courtrooms rather than legislative floors: The same court that can overturn Roe v. Wade can also cement it.

## AT “Old Justices = Bad”

**Judges become wiser and gain more experience over time – this is proven historically**

**Vladeck & Eastman 17, Law Professors**

Vladeck, Stephen, and John Eastman. “Setting Term Limits for Supreme Court Would Bring Too Many Political Problems.” Dallas News, 7 Mar. 2017, <https://www.dallasnews.com/opinion/commentary/2017/03/07/setting-term-limits-for-supreme-court-would-bring-too-many-political-problems/>. Stephen I. Vladeck is a professor at the University of Texas at Austin School of Law. He wrote this column for The Dallas Morning News. Email: [svladeck@law.utexas.edu](mailto:svladeck@law.utexas.edu) John C. Eastman is a professor of law and community service at Chapman University Dale E. Fowler School of Law. 🍁 BZ

From Justice Brennan to Justice Scalia, and Chief Justice Marshall to Chief Justice Rehnquist, many of the Court's most significant rulings have come from Justices well into their third (or fourth) decades of service. We are by no means indifferent to the concern about Justices whose faculties no longer allow them to carry their weight, but if that's the problem motivating term limits, there are far easier--and less over inclusive--ways to solve it. To impose term limits on all Supreme Court Justices would not, in our view, solve the real problem--the seemingly irreversible politicization of nominations--and, indeed, could serve only to further politicize (and, thus, weaken) the Court going forward.

## AT Young Nominees [Neg]

**Young Judges bring unique perspectives to the Court and are no lesser than older ones.**

**As for individuals who “don’t know what they’re doing”, they won’t even be nominated to the Court in the first place**

**Wilkinson 21, US judge.** The writer is a judge on the U.S. Court of Appeals for the 4th Circuit. III, J. Harvie Wilkinson. “Opinion | Supreme Court Term Limits Wouldn’t Solve Anything.” The Washington Post, WP Company, 17 Oct. 2021, <https://www.washingtonpost.com/opinions/2021/10/18/supreme-court-term-limits-wouldnt-solve-anything/>. 🌸BZ

One of the arguments for term limits is that the current system encourages presidents to select unduly youthful nominees, to maximize the time they will have on the bench. What in the world is wrong with youth? Youthful nominees add intellectual vitality and generational diversity to the bench. The past seven justices were 48, 53, 49, 50, 54, 55 and 50 when nominated. These 50-something “youthful nominees” have had plenty of time to acquire professional distinction, and someone hopelessly [anyone inexperienced] callow would face confirmation difficulties on that very account. As for the danger of justices with declining mental powers remaining on the court, there exist a plethora of internal and external pressures that can readily be deployed in the service of a dignified exit.



## AT Democracy Framework

**I will agree with their framework of democracy, but with a few additional clarifications:**

**The United States is a democracy, because according to**

**Elving 22**, senior editor. Ron Elving is Senior Editor and Correspondent on the Washington Desk for NPR News, where he is frequently heard as a news analyst and writes regularly for NPR.org. Elving, Ron. "Is America a Democracy or a Republic? Yes, It Is." National Public Radio, 10 Sept. 2022, <https://www.npr.org/2022/09/10/1122089076/is-america-a-democracy-or-a-republic-yes-it-is>. 🌸 BZ

But a democratic republic is US [the US]. Exactly. Throughout our history we have functioned as both. Put another way, we have utilized characteristics of both. The people decide, but they do so through elected representatives working in pre-established, rule-bound and intentionally balky institutions such as Congress and the courts. The government seated in Washington, D.C., represents a [democracy] democratic republic, which governs a federated union of states, each of which in turn has its own democratic-republican government for its jurisdiction. The relationship between the democratic and republican elements of this equation has been a dynamic and essential part of our history. But it has not always been easy, and in our time the friction between them has become yet another flashpoint in our partisan wars.

**The U.S. isn't a pure democracy, nor is it mob rule**

**Murdock 19**, writer. Murdock, Ryan. "Democracy Is Not Mob Rule." The Shift News Democracy Is Not Mob Rule Comments, 19 Apr. 2019, <https://theshiftnews.com/2019/04/19/mob-rule/>. 🌸 BZ

Democracy is the will of the people. We gather together as citizens and cast votes for the politicians we want to lead us. The Party who wins that election is asked to form the government. But the government — and its ministers, employees, and "persons of trust" — still have to obey the law. Political power doesn't magically exempt them from it. That's how functioning democracies work.

**Our democracy follows a legitimate law and respects minority rights.**

**Another key tenant of American democracy is Separation of Powers – an independent Judicial branch is key to check abuse of power**

**RDI 20**. Our founders have worked with concerned individuals across the political spectrum to create a comprehensive document in support of Constitutional democracy worldwide. "Defining Democracy: Independent Judiciary." Renew Democracy Initiative, 4 Sept. 2020, <https://rdi.org/defining-democracy-independent-judiciary/>. 🌸 BZ

Although the judiciary is a relatively overlooked and misunderstood aspect of our democratic system, it is an incredibly important part of our government. The independent courts serve a vital role in protecting American citizens against abuses of power by our political leaders through the affirmation of our rights as guaranteed by the United States Constitution and our code of laws. Without an independent judiciary, fair democracy would simply not be possible, and we would have no way of ensuring that our rights are protected.

**1] Polarization decks democracies**

**McCoy and Press 22** Jennifer McCoy and Benjamin Press, Jennifer McCoy is a nonresident scholar in the Democracy, Conflict, and Governance Program, where she focuses on political polarization and democratic resilience in the U.S. and around the world., Benjamin Press is a nonresident research analyst in the Democracy, Conflict, and Governance Program., January 18, 2022, What Happens When Democracies Become Perniciously Polarized?, <https://carnegieendowment.org/2022/01/18/what-happens-when-democracies-become-perniciously-polarized-pub-86190> (accessed 3/1/23)

Many other democracies around the world have grappled or are grappling with the difficulties posed by the onset of pernicious polarization, which McCoy and Somer have defined elsewhere as the division of society into mutually distrustful political camps in which political identity becomes a social identity.<sup>4</sup> The experiences of these other countries can provide useful insights into the United States' own struggles—and may help to predict what may be to come. Comparative studies have already shown that pernicious polarization is directly linked with democratic erosion and that the United States is far from the only democracy to confront severe polarization.<sup>5</sup> Yet broader context for understanding how democracies fare when facing pernicious polarization is lacking. To rectify this gap, we used the Varieties of Democracy (V-Dem) data set to take a close look at episodes of pernicious polarization around the world since 1950 and trace their relationships with levels of democracy.<sup>6</sup> The findings are not encouraging. **Severe polarization correlates with serious democratic decline**: of the fifty-two instances where democracies reached pernicious levels of polarization, twenty-six—fully half of the cases—experienced a downgrading of their democratic rating.<sup>7</sup> Only sixteen episodes were able to reduce polarization to below-pernicious levels, and the decline in polarization was only sustained in nine of those cases. Quite strikingly, the United States is the only advanced Western democracy to have faced such intense polarization for such an extended period. The United States is in uncharted and very dangerous territory. **POLITICAL OUTCOMES OF PERNICIOUS POLARIZATION** To situate the United States' experience within the broader universe of polarized democracies, **we compiled a comprehensive list of episodes since 1950 when a democracy reached pernicious levels of polarization for at least two years.**<sup>8</sup> We then compared the trajectories of their democratic ratings with their levels of political polarization.<sup>9</sup> Four basic outcomes were possible from this comparison, as

reflected in table 1: The country manages to depolarize and keep its democracy intact. The country manages to depolarize but suffers democratically. The country's democracy is able to live with the chronically high levels of polarization without undergoing any democratic downgrading (to date). The country experiences pernicious polarization and a downgrading of its democracy score. **TABLE 1: OUTCOMES OF EPISODES OF PERNICIOUS POLARIZATION** The data show that it is possible for democracies to depolarize. In these cases, listed in table 2, the public and the political elite were able to find ways to reduce the tensions that have divided them. The diversity of these cases shows that there are many ways of doing this: in some instances, divides over the future of the country were able to be resolved through democratic processes, while the rule of law checked polarizing leaders who were concentrating power elsewhere. For example, Brazil's newly restored democracy allowed for the successful impeachment and removal of its president following a corruption scandal in 1992, and a decade later managed the smooth transition to a government led for the first time by the leftist Workers Party. In Colombia between 2009 and 2010, an independent Constitutional Court restrained a president attempting to push through a constitutional amendment to allow him to run for a third term. Other cases benefited from international intervention, such as in Timor-Leste in 2006, when the threat of a military rebellion immediately polarized the country's politics and only depolarized after foreign military forces helped stabilize the country and the prime minister resigned. Finally, political agreements between elites may depolarize a country's politics. In Bolivia, for example, highly charged disputes in 2008 over autonomy for the country's southern regions were resolved through negotiations and a political settlement that provided for a constitutional referendum. These cases illustrate that depolarization—though very difficult—is possible. However, it is often quite fragile; as table 2 shows, a significant number of instances later repolarized to pernicious levels. The progress toward depolarization in seven of sixteen episodes was later undone, underscoring that the threat of pernicious polarization never fully disappears. Note: The start of each episode represents the first year in which the country attained both pernicious levels of polarization (3.0 on V-Dem's political polarization metric) and a democratic Regimes of the World score (either liberal or electoral democracy). The end year of each episode denotes the year in which V-Dem's polarization metric declines below pernicious levels. The year in which a country repolarizes is the year in which the polarization score returned to pernicious levels. **PERSISTENT POLARIZATION WITHOUT DEMOCRATIC DEGRADATION** This survey also yielded a group (see table 3) of countries that have experienced chronically pernicious levels of polarization for some time without undergoing democratic downgrading. Some countries, like Bosnia and Ecuador, have managed to juggle pernicious polarization and at least somewhat functional democracy for many years. While it is beyond the scope of this article to speculate as to why this might be, institutional factors like Bosnia's ethnoreligious power-sharing agreement backed by international institutions and neighboring countries may play a key role. However, for other countries, like Brazil, Mexico, and the United States, the onset of pernicious polarization is a much more recent phenomenon, and it is far from clear that their institutions will successfully manage the pressures of pernicious polarization. Indeed, a more sensitive metric—V-Dem's Liberal Democracy Index—shows that many members of this group, including Brazil, Colombia, Georgia, Mexico, and the United States, have seen their democratic health suffer since becoming perniciously polarized, albeit not to the point where their score on the Regimes of the World (RoW) index was downgraded. Especially for more recently polarized countries, their membership on this list may be more transitory as they either find a way to depolarize or their democracies degrade. All of the countries on this list, with the exception of the United States, are electoral democracies that lack the full protections of a liberal democracy. Note: The beginning year of the episode represents the first year the country became perniciously polarized

(defined as above 3.0 on V-Dem's political polarization metric). POLARIZATION AND DEMOCRATIC DECLINE The most common outcome of episodes where democracies reached pernicious levels of polarization was some form of major democratic decline. In total, twenty-six out of the fifty-two observed episodes (or 50 percent of cases) saw their country's RoW score downgraded, with the vast majority of those—twenty-three of twenty-six—descending into some form of authoritarianism. The other three cases underwent backsliding within democracy, falling from liberal democracy status to be reclassified as an electoral democracy. The full list of such cases is shown in table 4.

## AT (DPT) Democratic Peace Theory

### **DPT is wrong – 4 wars and other empirics prove**

- WWI (Germany vs. Britain, France, Italy, US), Boer War (Britain vs. South Africa and Orange Free State), Spanish-American War, Kargil War (India and Pakistan), also civil war

- sure democracies are peaceful to each other but not non-democracies

- 1 war is enough to disprove the whole theory bc there's so few examples in the first place

**Mearsheimer 18** John J. Mearsheimer, American political scientist and international relations scholar, who belongs to the realist school of thought. He is the R. Wendell Harrison Distinguished Service Professor at the University of Chicago. He has been described as the most influential realist of his generation, 2018, "The Great Delusion", Yale University Press, // ella

Democratic Peace Theory The words democratic peace theory imply that it offers a story about how democracy, not liberalism, brings peace. But the title is a misnomer, because the arguments underpinning democratic peace theory emphasize liberalism as well as democracy. A number of scholars in this tradition even refer to "liberal peace." It would be more accurate to call it liberal democratic peace theory. Moreover, liberal states are almost always democratic as well, mainly because the centrality of freedom and inalienable rights clearly implies that all citizens have the right to determine who governs them. As I emphasized in the introduction, this is why I focus on liberal democracies, not simply liberal states. Hence, I will examine both the democracy-based and liberalism-based logics behind democratic peace theory. Democratic peace theory was remarkably popular in the two decades after the Cold War ended. Michael Doyle introduced it to the academic and policy worlds in a pair of seminal articles published in 1983.<sup>9</sup> When the superpower rivalry ended in 1989, it was widely believed that liberal democracy would steadily sweep across the globe, spreading peace everywhere. This perspective, of course, is the central theme in Fukuyama's "The End of History?" But time has not been kind to Fukuyama's argument. Authoritarianism has become a viable alternative, and there are few signs that liberal democracy will conquer the globe anytime soon. Freedom House maintains that the world's share of democracies actually declined between 2006 and 2016, which naturally reduces the scope of the theory.<sup>10</sup> Even if liberal democracy were on the march, however, it would not enhance the prospects for peace, because the theory is seriously flawed. Consider its central finding. Some of its proponents argue that there has never been a war between two democracies. But this is wrong: there are at least four cases in the modern era where democracies waged war against each other. Contrary to what democratic peace theorists say, Germany was a liberal democracy during World War I (1914–18), and it fought against four other liberal democracies: Britain, France, Italy, and the United States.<sup>11</sup> In the Boer War (1899–1902) Britain fought against the South African Republic and the Orange Free State, both of which were democracies.<sup>12</sup> The Spanish-American War (1898) and the 1999 Kargil War between India and Pakistan are also cases of democracies fighting each other. <sup>13</sup> Other cases come close to qualifying as wars between democracies.<sup>14</sup> The American Civil War is usually not counted because it is considered a civil war rather than an interstate war. One might argue, however, that the distinction is not meaningful here. The Confederacy was established on February 4, 1861, but the war did not begin until April, by which time the Confederacy was effectively a sovereign state. It is also worth noting that there have been a host of militarized disputes between democracies, including some cases where fighting broke out and people died, but that fell short of actual war. <sup>15</sup> There are also many cases of democracies, especially the United States, overthrowing democratically elected leaders in other countries, a behavior that seems at odds with the claim that democracies behave peacefully toward one another. But let us get back to my four cases of actual wars between democracies. One might concede that I am right yet still argue that this tiny number of wars does not substantially challenge the theory. This conclusion would be wrong, however, for reasons clearly laid out by the democratic peace theorist James L. Ray: "Since wars between states are so rare statistically . . . the existence of even a few wars between democratic states would wipe out entirely the statistical and therefore arguably the substantive significance of the difference in the historical rates

of warfare **between** pairs of **democratic states**, on the one hand, **and** pairs of states **in general**, on the other.”<sup>16</sup> **Those four wars between democracies, in other words, undermine the central claim of democratic peace theorists.** The second major problem with **democratic peace theory** is that it **offers no good explanation for why liberal democracies should not fight each other.** Democratic peace theorists have put forward various explanations, some of which focus on democratic institutions and norms and others that emphasize liberal norms. But **none are compelling.** Democratic Institutions and Peace There are three institutional explanations for why liberal democracies do not go to war with each other. **The first emphasizes that publics are pacific by nature, and if asked whether to initiate a war they will almost certainly say no.** Kant articulates this argument in Perpetual Peace: “If the consent of the citizens is required in order to decide that war should be declared . . . nothing is more natural than that they would be very cautious in commencing such a poor game, decreeing for themselves all the calamities of war.”<sup>17</sup> This argument was popular during the Cold War among neoconservatives, who believed that liberal democracies were inclined to appease authoritarian states because democratic peoples were not only soft but influential, because they could vote.<sup>18</sup> **The fatal flaw in this argument is that it proves too much. If the citizens of a liberal democracy were so averse to war, they would be disinclined to fight against non-democracies as well as democracies. They would not want to fight any wars at all.** It is clear from the historical record, **however, that this is not the case. The United States, for instance, has fought seven wars since the Cold War ended, and it initiated all seven.** During that period it has been at war for two out of every three years. It is no exaggeration to say that **the United States is addicted to war.** Moreover, Britain, another liberal democracy, has been at America’s side throughout those wars. This helps explain why democratic peace theorists do not argue **that democracies are generally more peaceful than non-democracies.** Several factors explain why democratic peoples sometimes favor starting wars. For one, there are sometimes good strategic reasons for war and most citizens will recognize them. Furthermore, democratic leaders are often adept at convincing reticent publics that war is necessary, even when it is not.<sup>19</sup> Sometimes not much convincing is necessary, because the people’s nationalist fervor is so great that, if anything, they are pushing their leaders to go to war, whether necessary or not.<sup>20</sup> Finally, it is wrong to assume that the public axiomatically pays a big price when its country goes to war. Wealthy countries often have a highly capitalized military, which means that only a small slice of the population actually serves. Moreover, liberal democracies are often adept at finding ways to minimize their casualties— for example, by using drones against an adversary. As for the financial costs, a state has many ways to pay for a war without seriously burdening its public.<sup>21</sup> **The second institutional explanation is that it is more difficult for government leaders to mobilize a democracy to start a war.** This cumbersome decision making is partly a function of the need to get public permission, which is time-consuming given the public’s natural reluctance to fight wars and risk death. The institutional obstacles built into democracies, like checks and balances, slow down the process. These problems make it difficult not only to start a war but also to formulate and execute a smart foreign policy. **If these claims were true, again, democracies would not initiate wars against non-democracies. But they do.** There may be instances where democratic inefficiencies prevent governing elites from taking their country to war, although as I noted above, that will happen infrequently. Moreover, the institutional impediments that might thwart leaders bent on starting a war usually count for little, because the decision to start a war is often made during a serious crisis, in which the executive takes charge and checks and balances, as well as individual rights, are subordinated to national security concerns. In an extreme emergency, liberal democracies are fully capable of reacting swiftly and decisively, and initiating a war if necessary. **Finally, some argue that “audience costs” are the key to explaining the democratic peace.**<sup>22</sup> This claim rests on the belief that democratically elected leaders are especially good at signaling their resolve in crises because they can make public commitments to act in particular circumstances, which they are then obligated to follow through on. In other words, they can tie their own hands. If they renege on their commitments, the public will punish them by voting them out of office. Once a leader draws a red line, the argument goes, his audience will hold his feet to the fire. Two democracies can thus make it clear to each other what exactly they would fight over, which allows them to avoid miscalculation and negotiate a settlement. The audience-costs story is intuitively attractive, **but empirical studies have shown that it has little explanatory power.**<sup>23</sup> **There is hardly any evidence that audience costs have worked as advertised in actual crises.** Moreover, there are many reasons to question the theory’s underlying logic. For example, leaders are usually wary about drawing red lines, preferring instead to keep their threats vague so as to maximize their bargaining space. **In such cases, audience-costs logic does not even come into play. But even if a leader draws a red line and then fails to follow through, the public is unlikely to punish her if she ends the crisis on favorable terms.** Moreover, **one should never underestimate political leaders’ ability to spin a story so that it appears they did not renege on a commitment when they actually did. And even if a leader gives a signal, there is no guarantee the other side will read it correctly.** In sum, none of the mechanisms involving democratic institutions provides a satisfactory explanation for why democracies rarely fight wars with each other. <sup>24</sup> Some prominent democratic peace theorists recognize the limits of these institutional explanations and instead rely on normative arguments linked to democracy and liberalism.<sup>25</sup>

## DPT is a false promise that produces disasters after disasters – it's conflict driving

- Domestic policies vs how countries act internationally is different
- DPT assumes people share common values
- DPT assumes democracy is transferable but doesn't consider location and history

**Skidelsky 22**, ROBERT SKIDELSKY, Apr 19, 2022, "The False Promise of Democratic Peace", <https://www.project-syndicate.org/commentary/democratic-peace-theory-is-wrong-by-robert-skidelsky-2022-04>, [Robert Skidelsky, a member of the British House of Lords and Professor Emeritus of Political Economy at Warwick University] // Xu2

Clinging to the assumption that only dictatorships start military conflicts, proponents of democratization believed that the global success of their project would usher in a world without war. But this theory lacks a sound foundation and has produced one disaster after another when put into practice. LONDON – Through persuasion, exhortation, legal processes, economic pressure, and sometimes military force, American foreign policy asserts the United States' view about how the world should be run. Only two countries in recent history have had such world-transforming ambitions: Britain and the US. In the last 150 years, these are the only two countries whose power – hard and soft, formal and informal – has extended to all parts of the world, allowing them plausibly to aspire to the mantle of Rome. When the US inherited Britain's global position after 1945, it also inherited Britain's sense of responsibility for the future of the international order. Embracing that role, America has been an evangelist of democracy, and a central US foreign-policy objective since the fall of communism has been to promote its spread – sometimes by regime change, when that is deemed necessary. In fact, this playbook dates back to US President Woodrow Wilson's time. As historian Nicholas Mulder writes in *The Economic Weapon: The Rise of Sanctions as a Tool of Modern War*, "Wilson was the first statesman to cast the economic weapon as an instrument of democratization. He thereby added an internal political rationale for economic sanctions – spreading democracy – to the external political goal that...European advocates of sanctions have aimed at: inter-state peace." The implication is that, where the opportunity offers, military and non-military measures should be used to topple "malign" regimes.<sup>2</sup> According to democratic peace theory, democracies do not start wars; only dictatorships do. A wholly democratic world thus would be a world without war. This was the hope that emerged in the 1990s. With the end of communism, the expectation, famously expressed by Francis Fukuyama's 1989 article, "The End of History?," was that the most important parts of the world would become democratic.<sup>2</sup> US supremacy was supposed to ensure that democracy became the universal political norm. But Russia and China, the leading communist states of the Cold War era, have not embraced it; nor have many other centers of world affairs, especially in the Middle East. Hence, Fukuyama has recently acknowledged that if Russia and China were driven together, "then you would really be living in a world that was being dominated by these non-democratic powers...[which] really is the end of the end of history." The argument that democracy is inherently "peaceful," and dictatorship or autocracy "warlike," is intuitively attractive. It does not deny that states pursue their own interests; but it assumes that the interests of democratic states will reflect common values like human rights, and that those interests will be pursued in a less bellicose manner (since democratic processes require negotiation of differences). Democratic governments are accountable to their people, and the people have an interest in peace, not war. By contrast, according to this view, rulers and elites in dictatorships are illegitimate and therefore insecure, which leads them to seek popular support by whipping up animosity toward foreigners. If democracy replaced dictatorship everywhere, world peace would follow automatically. This belief rests on two propositions that have been extremely influential in international relations theory, even though they are poorly grounded theoretically and empirically. The first is the notion that a state's external behavior is determined by its domestic constitution – a view that ignores the influence the international system can have on a country's domestic politics. As the American political scientist Kenneth N. Waltz argued in his 1979 book, *The Theory of International Politics*, "international anarchy" conditions the behavior of states more than the behavior of states creates international anarchy. Waltz's "world-systems theory" perspective is particularly useful in an age of globalization. One must look to the structure of the international system to "predict" how individual states will behave, regardless of their domestic constitutions. "If each state, being stable, strove only for security, and had no designs on its neighbors, all states would nevertheless remain insecure," he observed, "for the means of security for one state are, in their very existence, the



means by which other states are threatened.” Waltz offered a bracing antidote to the **facile assumption that democratic habits are easily transferable** from one location to another. Rather than trying to spread democracy, he suggested that it would be better to try to reduce global insecurity. Though there is undeniably **some correlation between democratic institutions and peaceful habits**, the direction of **causation is disputable**. Was it democracy that made Europe peaceful after 1945? Or did the US nuclear umbrella, the fixing of borders by the victors, and Marshall Plan-fueled economic growth finally make it possible for non-communist Europe to accept democracy as its political norm? The political scientist Mark E. Pietrzyk contends that, “Only states which are relatively secure – politically, militarily, economically – can afford to have free, pluralistic societies; in the absence of this security, states are much more likely to adopt, maintain, or revert to centralized, coercive authority structures.”<sup>1</sup> **The second proposition is that democracy is the natural form of the state, which people everywhere will spontaneously adopt if allowed to. This dubious assumption makes regime change seem easy, because the sanctioning powers can rely on the welcoming support of those whose freedom has been repressed and whose rights have been trampled underfoot. By drawing superficial comparisons with postwar Germany and Japan, the apostles of democratization grossly underestimate the difficulties of installing democracies in societies that lack Western constitutional traditions. The results of their handiwork can be seen in Iraq, Afghanistan, Libya, Syria, and many African countries.** Democratic peace theory is, above all, lazy. It provides an easy explanation for “warlike” behavior without considering the location and history of the states involved. This shallowness lends itself to overconfidence that a quick dose of economic sanctions or bombing is all that is needed to cure a dictatorship of its unfortunate affliction. In short, the idea that democracy is “portable” leads to a gross underestimation of the military, economic, and humanitarian costs of trying to spread democracy to troubled parts of the world.

The West has paid a terrible price for such thinking – and it may be about to pay again.

## **Democracies are more prone to start war – best mathematical models proves**

**Velasco 18**, Emily Velasco, July 18, 2018, “Democracies More Prone to Start Wars – Except When They're Not”, <https://www.caltech.edu/about/news/democracies-more-prone-start-wars-except-when-theyre-not-82879> // Xu2

What kind of political leader is most likely to start a war—an invective-spewing dictator or the elected head of a democratic nation? Surprisingly, science says it's probably not the autocrat. Leaders of **democratic nations actually have stronger incentives to start** and exacerbate **conflicts** with other countries than their autocratic counterparts, suggests a new study published by the American Journal of Political Science. The difference boils down to public pressure, say the study's authors, Michael Gibilisco of Caltech and Casey Crisman-Cox of Texas A&M University. **Because of pressure from voters to not back down and appear weak, democratic leaders tend to act more aggressively** in international conflicts. An autocrat, on the other hand, is answerable to no one and can back down from a conflict without facing personal consequences. “If an elected leader makes a threat during a conflict with another country and the threat isn't followed through, **they may face a decrease in approval ratings**, or they may lose an election,” says Gibilisco, assistant professor of political science. In democracies, he notes, voters can punish their leaders for appearing weak—**these punishments or consequences are known as “audience costs”** in political science parlance. To avoid those costs, leaders in representative governments become more aggressive during disputes. In their study, Gibilisco and Crisman-Cox, who is also an assistant professor of political science, **first developed a mathematical model of dispute initiation between countries and then fit the model to data of actual conflicts that occurred among 125 countries between 1993–2007.** They also estimated audience costs for the countries in their sample using existing databases containing country-by-country information on levels of democracy and press freedom. **In general, they found that audience costs are highest**

in democracies with strong protections for a free press. However, they also found that audience costs are much lower in democracies that have a rival that threatens their existence. (For example, South Korea's existential rival is North Korea.) One reason, the researchers say, is that a nation's voters will give their leader more leeway in deciding how to resolve a conflict with an existential rival, because survival is more of a concern than saving face. In contrast to democracies, dictatorships tend to have low audience costs, but here, too, Gibilisco and Crisman-Cox found an exception. Dictatorships that provide a legal mechanism for removing a leader—as was the case in China before it abolished term limits this past March—have higher audience costs. Once the researchers produced an audience-cost estimate for each country, they considered how changing a country's audience costs affects its willingness to engage in conflict. Overall, they found, increasing a country's audience costs, perhaps by strengthening democratic institutions, makes it more likely to start a conflict. However, Gibilisco and Crisman-Cox found that other dynamics are at play that create more nuanced international dynamics. For example, while democratic leaders may be less likely to back down during a crisis, they can also be more aggressive and prone to initiate conflict, because they know their opponent won't want to get in a fight against a country that will hold its ground, even if it leads to war. Alternatively, a democratic leader may be less likely to initiate a conflict in the first place, as they know that they won't be able to easily stand down from it. Lastly, the researchers found a sort of mutually assured destruction effect with audience costs. Two countries that each have high levels of audience cost know the other cannot back down and thus avoid conflicts with each other; if they do end up in a dispute, however, the countries will have a harder time resolving it peacefully. "The model kind of explains this behavior where peace and conflict are both self-enforcing," Gibilisco says. "So, if we're in peace today, none of us want to escalate a dispute into war tomorrow. But once we're at war, we want to avoid de-escalating." "Audience Costs and the Dynamics of War and Peace" appears in the July 2018 issue of the American Journal of Political Science.

## **Peace is caused by other factors than democracy – alt causes, gender equality, common interest among countries, economy – best statistical analysis**

- When studies added a new variable of common interest, correlation disappeared.
- Only works in developed countries.
- Gender inequality another variable.
- Public opinion not necessarily rational nor peaceful and leaders and circumvent.
- Decisions for war and peace caused by national interest, balance of power, not regime type.

**Reiter 17**, Dan Reiter, 25 January 2017, "Is Democracy a Cause of Peace "

<https://oxfordre.com/politics/display/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-287;jsessionid=F11988C7EF34268ED42F6E3F780C68FD?mediaType=Article#acrefore-9780190228637-e-287-div1-4>, [Department of Political Science, Emory University] // Xu2

The first set of critiques is that the observed correlation between dyadic democracy and peace is spurious. More informally, the critique is that the observed peace between democracies is caused by factors other than democracy, and not by democracy itself. More rigorously, consonant with the definition of a law provided above, the observed peace between democracies would not support the counterfactual that taking a pair of democracies and rendering one of them non-democratic would make their relationship less peaceful. Whether the democratic peace is spurious or causal is not merely a semantic quibble. Scientists across the social and natural sciences maintain a deep interest in determining whether an observed correlation is causal or merely spurious. Identifying causation is critically important in translating scientific findings into policy recommendations, in areas such as dietary guidelines, poverty reduction, education, fighting disease, and others. Scholarship making the claim that the democratic peace is spurious frequently takes the following form. On the theoretical side, an alternative explanation for the causes of peace is provided. On the empirical side, a critique will present a previously published multivariate regression analysis showing support for the dyadic democratic peace, and then show that adding to this regression analysis an additional independent variable that measures the new, alternative explanation will cause the dyadic democratic peace variable to become statistically insignificant. Adding the new variable is justified from a methodological point of view as a means of improving the model by reducing what is referred to as "omitted variable bias." The critique then draws the inference that because the inclusion of this additional variable (or variables) renders the democracy variable statistically insignificant, the initial result was flawed because of omitted variable bias. In turn, the inference is that the initial



observed correlation between democracy and peace is spurious rather than causal, and that as a causal hypothesis the democratic peace proposition is not supported. A further implication is that because the democracy-peace relationship is spurious rather than causal, policy-makers should avoid concluding that spreading democracy will in turn cause the world to be more peaceful.<sup>5</sup> Scholars have made a number of arguments about the spuriousness of the democratic peace, that is, they have pointed to a series of different variables that if included in multivariate regressions render the democracy-peace correlation statistically insignificant. The oldest and perhaps most central proposition of this type is the realist argument that common national interests rather than joint democracy explain peace. As indicated above, realism proposes that international relations are fundamentally driven by national interests, and not by domestic politics or institutions. Further, realism places no faith in the ability of public opinion coupled with democratic institutions to be a force for peace, because public opinion is not necessarily rational or peaceful; and because elected and other leaders can circumvent the constraints of public opinion through secrecy and other forms of manipulation (e.g., Mearsheimer, 2011; Rosato, 2003; Schuessler, 2015). Historically, the collapse of the international order in the interwar period made realist critics such as E. H. Carr, Walter Lippmann, and Hans Morgenthau deeply skeptical of Wilson's vision that the spread of democracy could support global peace. Waltz (1959; 1993, p. 78) from the 1950s through the 1990s was also critical of the Kantian hope that democracy would bolster peace, proposing that the brutally competitive nature of the anarchic international system forces different types of political regimes to adopt converging foreign policies in order to survive. Realists in turn proposed that any observed correlation between democracy and peace must be spurious, and in turn that the observed peace between democracies was caused by commonalities in interest and/or by a functioning balance of power rather than by regime type (see Layne, 1994; Mearsheimer, 2014; Rosato, 2003). Several quantitative studies have endeavored to demonstrate that decisions for war and peace are caused by realist factors such as national interests and the balance of power, and not by regime type. In the 1990s, realist critics took note that the first wave of rigorous quantitative democratic peace studies focused on the 1950–1985 time period, suggesting that especially during this Cold War period democracies were unwilling to fight each other not because of institutions or norms, but because North American, East Asian, West European, and South Pacific democracies needed to balance together against a common Communist threat. A variant of this argument is that peace among democracies during the Cold War was maintained by American hegemony, that a democratic America managed conflict among states within the democratic, anti-Communist bloc to solidify its global power position. These studies took different approaches to demonstrating this point. Gowa (1999) argued that the democratic peace was a temporal phenomenon; that pairs of democracies were indeed less likely to become involved in militarized interstate disputes or wars after 1945; were less likely than other pairs of states to become involved in MID's but not wars from 1919–1938; and were as likely to become involved in wars and MID's before World War I. That is, she measured the presence of common interest indirectly by comparing political eras, arguing that democracies shared common interests after 1945, confronting the Communist threat, and therefore unsurprisingly were less likely to fight each other. Before World War II, she argued, when there were fewer common interests among democracies, the observed correlation between democracy and peace disappears. Gartzke (1998) took a more direct approach toward testing the same theoretical supposition. He also proposed that common interest rather than joint democracy was the true cause of the observed peace between democracies, especially in the post-1945 period. Rather than comparing eras as Gowa did, he analyzed the post-1945 period, but included in his regression analysis a variable of common interest, measuring how similar were the United Nations General Assembly voting patterns of two states. He found that this variable was statistically significantly related to dyadic peace, and that inclusion of this variable rendered the joint democracy variable statistically insignificant as an explanation of dyadic peace. Some observers have also suggested that the observed peace between democracies is caused by geographic factors rather than regime type (Worley, 2012). An additional cut on the national interests argument is that conflicts are caused by interstate disputes over contested issues, like territory, and not by regime type. Gibler (2012) focused on territorial disagreements between states. He proposed that territorial disagreements are the fundamental cause of conflict between states, and that inclusion of variables that measure the stability of borders, and therefore the absence of territorial disagreement, rendered the joint democracy

independent variable to be statistically insignificant as a cause of peace. A second cluster of spuriousness critiques focuses on economic rather than political factors. A perhaps more limited version of this critique is that there is a **peace among democracies, but only in the developed world and not in developing** areas such as sub-Saharan Africa (Henderson, 2008). A more ambitious form of this critique is that development and markets are the true causes of peace, and that democracy is uncorrelated with peace when these factors are accounted for. There are some variants of this observation. Gartzke (2007) focused on higher levels of economic development, proposing that more developed states enjoy lower marginal gain from winning a war over economic assets, and in turn are less likely to become embroiled in war. Conceptually, there is a related strand of research that war has become obsolete as states' economies have become more advanced and rely more on trade and the global market (Rosecrance, 1986). This point is also related to the more popular assessments of a "McDonald's Peace," the observation that countries with McDonald's restaurants have never fought, McDonald's being a sign of development (Friedman, 2000, ch. 21), or the "greens peace," the observation that nations in which golf is sufficiently popular (again, a sign of development) never fight each other (Plotz, 2000). Mousseau (forthcoming; 2009) made a different argument, proposing that only some forms of economic development nurture peace. He proposed that market-based societies place a cultural emphasis on contracts and the law. In turn, this cultural emphasis on law percolates into foreign policy preferences, pushing such states to prefer nonviolent means of conflict resolution. Mousseau proposed that inclusion of a variable measuring this emphasis on contracts and law, what he termed to be "contractualism," renders the joint democracy variable statistically insignificant. A third critique focuses on gender. One of the central questions asked in the study of gender and politics is the relationship between gender and war, with many arguing that biological sex and/or cultural constructions of **gender are critical factors affecting the onset of political violence**. Further, some scholars have used gendered perspectives to critique the proposition that democracy causes peace. Allison (2001) used Kant's framework of perpetual peace to propose that the key cause of international peace is a feminine perspective on interpersonal care rather than joint democracy. Wisotzki (2015) suggested that gender equality encourages both democracy and peace, though she stopped short of proposing that there was no causal relationship between democracy and peace. Hudson and colleagues (2012) used new data on the physical security of women and political violence, finding that lower physical security of women makes political violence more likely, and that the inclusion of gender equality in the analysis renders democracy an insignificant determinant of peace. Notably, Hudson and colleagues' unit of analysis is the state rather than a pair of states, and their measure of violence incorporates many types of violence, including intrastate violence. One of Hudson's coauthors in earlier studies of the causes of interstate violence found in multivariate analyses mixed evidence that both measures of gender inequality and democracy were statistically significant causes of peace (Caprioli, 2000; Caprioli & Boyer, 2001). Another possible critique, not quite leveled explicitly by any critics, is that **common culture** and common identity, rather than democracy, **cause peace**. This is perhaps an implication of Huntington's (1996) "Clash of Civilizations" thesis: **that differences in civilization or culture** rather than regime type **determine conflict** between states.

## **Progressive Arguments**

## **Spec shells**

## 1NC Shell – Spec in General / Enforce

**Interpretation: The aff must specify how “term limits for supreme court justices” are implemented in a delineated text in the 1AC**

**Term limits is politically vague- kills enforcement**

**Maggie 6-15** 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/>///Cookie NJ

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**.<sup>10</sup> 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.<sup>11</sup> 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.<sup>12</sup> 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. 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.

This model has been supported as a good government reform by notable progressives and conservatives alike.<sup>13</sup> Among those who support such term limits, there are two general points of debate. First, there is **the question of whether the reform could be achieved through statute**. However, as long as term-limited judges are allowed to take on senior status or otherwise serve the judiciary in some capacity while continuing to be fully compensated, there is every reason to think that term limits could be done by statute.<sup>14</sup> **Second, and more importantly, there is the question of whether statutory limits could be instituted retrospectively or only prospectively**—in other words, if the current justices would be subject to the limit or if the limit would only apply to new justices. The debate hinges on whether such a change redefines the nature of the position to which the justice was appointed, thereby creating constitutional issues.<sup>15</sup> Regardless of a final approach, term limits would help to advance significant change.

**Violation: they don’t**

**Negate for Shiftiness** They can redefine the enforcement mechanism in the 1AR to wriggle out of DA’s since all links are predicated on it like vacancy, doctrinal stability, and politics DAs that may apply to a retrospective constitutional amendment but not prospective

**Drop them to deter future abuse**

**Use competing interps cuz reasonability’s arbitrary and invites judge intervention**

**No RVIs – 1] illogical to win for being fair 2] chills theory baiting abuse 3] Destroys substance debate**

## 1NC Shell – “Term Limited”

**Interp:** the Aff must specify what “term-limited” means in the 1AC.

**Violation:** they don’t

**There are endless interpretations of “term limits” – infinite term lengths, limit the term by age or time in office, etc.**

**Proven by Cain & Levin, Annual PoliSci Review.** Institute of Governmental Studies, University of California at Berkeley, Berkeley, California. Institute of Governmental Studies, University of California at Berkeley, Berkeley, California. Cain, Bruce, and Marc Levin. “Term Limits | Annual Review of Political Science.” Annual Reviews, June 1999, <https://www.annualreviews.org/doi/10.1146/annurev.polisci.2.1.163>. 🍁 BZ

Seemingly, the most straightforward prediction would be that **limiting terms** should increase the rate of legislative turnover. In the simplest sense of eliminating incumbents who stay on past a certain number of years, this is true by definition. But **in the sense of altering the mean tenure of representatives, the matter is not so straightforward.** Whether **the limit imposed by law changes average tenure rates will depend[s] on** such factors as the **length of the term, the rate of turnover in the legislative body before term limits, and the opportunities for advancement perceived by incumbents.** Depending on these characteristics, **term limits can have either a dramatic or null impact** on average turnover.

### Standards

**1] Shiftiness** - The Aff could be saying that each Justice gets a term limit anywhere between 1000 years and zero. All of these would have significantly different outcomes. 1AR clarification delinks neg positions like the Court Independence, Experienced Justices, or Decision Efficiency by saying those aren’t their interpretation of *term limits*. Wrecks neg ballot access and kills in depth clash.

**2] Real World** - Policy makers (and anyone really) will always specify key terms of the plan. Absent spec, people can circumvent the Aff’s action since there is no delineated way to define, which means there’s no way to actualize any of their arguments.

### Paradigm issues

**Drop them, because a] deter future abuse and b] you’d drop your whole advocacy anyways.**

**Use competing interps cuz reasonability’s arbitrary and invites judge intervention**

**No RVIs: a] Logic, you don’t win for being topical; b] Baiting, encourages abuse to bait T.**

**1NC theory first – I was only abusive cuz they were. It’s my only way to check back**

## 1NC Shell – 18 yr Terms

**Interpretation:** if the affirmative debater specifies a judicial term limit of 18 years they must specify a comprehensive plan for the implementation of that limit in a delineated text in the 1AC

**Violation:** they dont

**Just saying 18-year plans generally are not enough - there're tons of plans with different nuances.**

- Oliver's Proposal
- UVA Plan
- Northwestern Plan
- Renewal Act
- Justices on Deck
- Khanna Bill

**Chilton et al** 21 ADAM CHILTON et al. 21, 2021, "DESIGNING SUPREME COURT TERM LIMITS", Southern California Law Review, <https://southerncalifornialawreview.com/2022/05/04/designing-supreme-court-term-limits%E1%9F%92%E1%9F%92%E1%9F%92/>

**Over the last several decades, several major term-limits proposals have been put forward.** These proposals each make concrete choices for at least some of the nine design decisions we outlined above, but they also typically leave some of these decisions either ambiguous or unaddressed. We outline several of the most prominent proposals below. **1. Oliver's Proposal** The first scholar to lay out the basic framework of the dominant term-limits proposals was Philip Oliver. **In a 1986 article, Oliver offered a draft constitutional amendment that would "replace life tenure for Supreme Court Justices with a system of fixed, staggered terms."**<sup>69</sup> As he put it, "[t]he primary features of the proposal are that Justices should serve for **staggered eighteen-year terms**, and that if a Justice did not serve his full term, a successor would be appointed only to fill out the remainder of the term."<sup>70</sup> Vacancies would be staggered such that one seat would open up each odd-numbered year. Oliver's proposal has a number of key features. Notably, it would **limit the tenure of Justices already appointed at the time of enactment—that is, it would not accommodate the legacy Justices.** The proposal does, however, include a lag of approximately five years before it becomes effective: the most senior Justice on the Court would be required to leave on the third odd-numbered year after enactment.<sup>71</sup> So, for example, if the plan were enacted in 2021 or 2022 and no current Justices retired or died, Justice Thomas would vacate his seat in August of 2027, to be replaced by a new Justice who would serve an eighteen-year term. **Another important detail is how the proposal handles unexpected vacancies. If a Justice dies or retires outside of the normal schedule, Oliver's proposal provides that a replacement Justice will be appointed who serves out the rest of the predecessor's term.** So, if the plan were enacted in 2021 and Justice Breyer retired in 2022, his replacement would serve only until 2029, when a new Justice would be appointed for a full eighteen-year term. If that Justice were to leave the Court after ten years, she would be replaced by a temporary Justice who would serve for eight years. **Temporary Justices may not be reappointed for full eighteen-year terms. The only exception to these rules is that, where a replacement Justice is being appointed to a seat that would become vacant during the same presidential term, the new appointee would serve for somewhat longer than eighteen years.** If, say, Justice Thomas were to leave the Court in 2025 before his seat expired in 2027, the president elected in 2024 would replace him with a Justice who would serve until 2045. **2. The UVA Plan** Oliver's proposal was revived two decades later by two University of Virginia law students, James DiTullio and John Schochet, in a Virginia Law Review student note.<sup>72</sup> **Their proposed constitutional amendment (which we refer to as the "UVA Plan") has much in**

common with Oliver's, but with a couple of key differences. One relates to the timing of the **transition**. Although their plan would, like Oliver's, limit the tenure of existing Justices, the mechanics are slightly different. **The plan would take effect on the first odd-numbered year following ratification, and then the most senior Justice's tenure would end "on the third day of January of the first even-numbered year following the effective date of this Amendment and commencing after that Justice has served for at least eighteen years on the Supreme Court."**<sup>73</sup> At that point, each remaining Justice would leave every two years, from most to least senior. In other words, so long as the most senior Justice had already served for eighteen years upon the amendment's ratification, the UVA Plan would become operative more quickly than Oliver's. Another important difference is that the UVA Plan **makes no allowances for short-term appointments that would expire during the appointing president's term**. Whereas Oliver's plan simply allows those Justices to serve for somewhat longer than eighteen years, the UVA Plan would require an interim appointment who would serve for a short period and who could not be reappointed to a full term.<sup>74</sup> **This could lead to differences for the ideology of Justices in some scenarios.** Under Oliver's plan, if a vacancy opened up on the Court in the second year of a presidential term, the president would be able to fill it with an appointee who would serve for nineteen years. **Under the UVA Plan, the president would pick a shortterm appointee and then would make a new appointment the following year. Given that the president's party often (though not always) loses seats in the Senate in midterm elections,**<sup>75</sup> the UVA Plan might lead to nominees who are more ideologically moderate in such scenarios but also might have a greater chance of producing Senate impasses. 3. **The Northwestern Plan** Another proposal comes from Northwestern University School of Law professors Stephen Calabresi and James Lindgren. Like the Oliver and Virginia proposals, **this one (the "Northwestern Plan") is also a constitutional amendment that calls for eighteen-year terms. But the proposal has some key differences from other proposals. Most importantly, it would not apply to legacy Justices on the ground that "retroactive application . . . would be both unfair and unnecessary."**<sup>76</sup> All **Justices currently serving** at the time the proposal was enacted would retain life tenure. This choice has consequences for the plan's transition because it takes much longer to establish a schedule of staggered eighteen-year terms. The authors propose that each new appointment after the amendment would occupy the "next open slot" in order to make the eighteen-year cycle work.<sup>77</sup> Imagine that the plan became operative in 2021. If the first retirement occurred in 2022, the new Justice would be appointed to the eighteen-year slot that begins in 2023—meaning that Justice would serve for nineteen years. If the next vacancy arose in 2023, the new Justice would be appointed for the slot that began in 2025. And so on. **Under the Northwestern Plan, term-limited Justices would receive their salary for life and would be permitted to sit as judges on the lower courts for life.**<sup>78</sup> In the event of unexpected vacancies, an interim Justice would be appointed to fill out the rest of the term, and that appointee would be ineligible for reappointment for a full term.<sup>79</sup> 4. **The Renewal Act** Roger Cramton and Paul Carrington have **proposed** their own **eighteen-year term-limit plan (which we refer to as the "Renewal Act," the name they gave their draft statute).**<sup>80</sup> The proposal has a significant difference from those described thus far: it is an **ordinary statute, not a constitutional amendment**. Despite the common view that life tenure is constitutionally required, Cramton and Carrington argue that features of their reform mean it could be implemented through statutory means consistent with the Constitution.<sup>81</sup> **Their proposal would work as follows. First, all legacy Justices would retain life tenure. Vacancies would be filled as per usual once those Justices died or retired until the last grandfathered Justice left the Court. At that point, the system of regularized appointments every odd-numbered year would begin. Interestingly, no Justice would be "term-limited" from the Court; all Justices would keep their titles and judicial roles for life. But the system would effectively create an eighteen-year term.** This is because if at any point there were more than nine Justices on the Court, only the nine most junior would participate in the ordinary work of hearing merits cases. **In practice, after eighteen years of service, any given Justice would be bumped out of the nine most junior Justices, as nine appointments would have been made since that Justice's appointment. Senior Justices would still be permitted to sit on the Court in cases of**



**recusal or temporary disability by the active Justices, and would be called up in reverse order of seniority. They also would sit as circuit judges and participate in other work of the Supreme Court, such as approving amendments to the Federal Rules.** In the event of an unexpected death or retirement that left the Court with fewer than nine Justices, the president would be permitted to make an extra appointment that would take the place of the next regularly scheduled appointment.<sup>82</sup> **5. Justices on Deck** The advocacy organization Fix the Court has proposed a reform that looks quite similar to the Renewal Act proposal but which has a couple of key differences. **Under this proposal, the cycle of appointments every two years would begin immediately upon enactment.**<sup>83</sup> **The term limits would apply to new Justices, but not the legacy Justices. Once an eighteen-year term expires, a Justice would become senior and serve on the lower courts. During their eighteen-year terms, however, they would sit on the Court only once they were among the nine most senior Justices on the bench.**<sup>84</sup> In practice, this would mean that some of the early new appointments would have short tenures on the Supreme Court. **Depending on how long it took for legacy Justices to retire, an early appointee could spend a sizable chunk of her eighteen-year term waiting “on deck” to become one of the nine most senior Justices.** **6. The Khanna Bill** Fix the Court has also developed a different proposal, a version of which has now been introduced into Congress by Representative Ro Khanna (the “Khanna Bill”).<sup>85</sup> As with the prior proposal, appointments would begin immediately and legacy Justices would not be subject to term limits. **Unlike the previous proposal, however, there would be no requirement that only the nine most senior Justices sit and decide cases during the transition period. What this means is that, unlike the other proposals discussed thus far, the Supreme Court could have more than nine actively participating Justices during the transition period**—in theory as many as eighteen, **if every Justice on the Court upon the bill’s enactment remained on the Court for eighteen more years. After the transition, senior Justices could return to the Court temporarily to fill unexpected vacancies.**<sup>86</sup> The proposal also has one interesting feature designed to prevent obstruction of nominees in the Senate. It provides that, if the Senate fails to act within 120 days of the president’s nomination, the nominee will be automatically seated.<sup>87</sup> This provision would address a situation like the one that arose in 2016 with President Obama’s nomination of Judge Garland, although importantly it would not prevent the Senate from simply holding a vote and voting down any nominees by the president. **7. Other Proposals** Most proposals for term limits have converged on eighteen-year limits, and we expect that policymakers would be most likely to select that length of term if they do adopt term limits. A number of commentators have proposed terms of different lengths, however, and we will briefly catalogue them here. Henry Paul Monaghan has suggested “some fixed and unrenewable term, such as fifteen or twenty years” for Supreme Court Justices.<sup>88</sup> The problem with a fifteen- or twenty-year term limit, however, is that, with a nine-member Supreme Court, it would not distribute appointments evenly among presidents—which is one common goal shared by many term-limits advocates. This is presumably why the eighteen-year limit has far more support than either fifteen- or twenty-year terms. But some think eighteen years is too long. Conservative commentator Mark Levin has proposed staggered twelve-year term limits, with three appointments made each presidential term rather than two under the eighteen-year plan.<sup>89</sup> Stephen Carter has proposed staggered nine-year terms, which would translate into one appointment each year and four each presidential term.<sup>90</sup> And an even shorter term-limits proposal comes from D.C. Circuit Judge Laurence Silberman. He argues that in order to “make justices think of themselves as judges,” Supreme Court appointees should serve for only five years, after which they could sit on the lower courts for life.<sup>91</sup> With a five-year limit, every two-term president would get to replace the entire membership of the Supreme Court—an outcome we suspect would strike many observers as undesirable.

**Vote neg:**

**1] Shiftiness:** 1AR clarification delinks neg positions that depend on what a general 18 year limit is. We lose core topic arguments such as Links to legacy judges dissads about reappointment links to politics dissads based on amendments the list goes on as aff can shift out by saying their plan doesn't use that mechanism or has extra policies that solves – wrecks neg ballot access and kills in depth clash because it literally defines neg ground– CX doesn't check since it kills 1NC construction during the Aff speech, destroys substance of CX, judges don't flow, debaters can be shift

**2] Real World-** Policy makers will always specify what plan they want to pass. It also means zero solvency, absent spec, people can circumvent the Aff's policy since there is no delineated way to enforce the affirmative which means there's no way to actualize any of their solvency arguments.

**And its not infinitely regressive-Card proves its grounded in the topic lit and controls neg access to ground.**

### **Paradigm issues**

**Drop them, because a] deter future abuse and b] you'd drop your whole advocacy anyways.**

**Use competing interps cuz reasonability's arbitrary and invites judge intervention**

**No RVIs: a] Logic, you don't win for being topical; b] Baiting, encourages abuse to bait T.**

**1NC theory first – I was only abusive cuz they were. It's my only way to check back**

### **AT CX Checks**

- 1] You're wasting my CX defining a term you should have defined in the 1AC.**
- 2] Shiftiness: what if we didn't hear it in CX cuz most people don't flow CX.**
- 3] Kills Neg case construction during the 1AC: You should have spec'd from the start so I could interpret your case and come up with responses earlier.**

## **Topicality**

## AT Age Limits – T

**Interp: the Affirmative must only defend term limits**

**Violation: their advocacy is AGE limits, which is very different**

**Metzger & Griffiths 22.** Politics reporters. Metzger, Bryan, and Brent Griffiths. "There's Overwhelming Support for an Age Limit on the President and Congress. Here's Why That Won't Happen Anytime Soon." Business Insider, Business Insider, 26 Sept. 2022, <https://www.businessinsider.com/congress-term-limits-age-gerontocracy-old-lawmakers>. 🍁 BZ

In the absence of an age cap, term limits offer another potential solution, though that too would require going through the arduous constitutional-amendment process. The history of the contemporary movement for term limits largely dates back to the early 1990s, when dozens of states enacted term limits not just for their own legislatures but for their federal representatives in Washington. Former House Speaker Newt Gingrich made the idea a core pillar of his "Contract with America" in 1994, and a majority of House members even voted 227-204 for a constitutional amendment that would have imposed 12-year limits on members of Congress — six two-year terms for House members, two six-year terms for senators — though that fell short of the necessary two-thirds majority necessary to begin the process. That same year, the Supreme Court — which has no age or [term /] service limits — ruled that states couldn't impose requirements on their representatives that are more strict than those laid out in the Constitution, overturning federal term-limit laws passed by 23 states. Nonetheless, the idea continues to have significant currency on the right, including some daring conservatives who in fact hope to hold a constitutional convention for those very purposes.

### Standards:

- 1] Predictability – The topic is the only stable stasis point for research and preparing. Predictability is key to education – determines how much I can engage in-depth in substance, and also fairness for under-resourced debaters who can't prep out non-term-limit stuff**
- 2] Topic education – none of us learn the nuances of term limits, which is both much more relevant [from Metzger & Griffiths 22] and what the NSDA wording committee found would be most educational. Education is portable outside debate.**

### Paradigm issues

**Drop them, because a] deter future abuse and b] you'd drop your whole advocacy anyways.**

**Competing interps— a] reasonability invites judge intervention and b] you can't be reasonably topical: it's yes/no.**

**No RVIs: a] Logic, you don't win for being topical; b] Baiting, encourages abuse to bait T.**

**1NC theory first – I was only abusive cuz they were. It's my only way to check back**

## AT 0-yrs – T

**Interpretation: Affirmatives must defend the resolution. To clarify, term-limits must be an amount of time.**

**‘Limits’ restrict but cannot eliminate.**

**Raker 3** (Judge on the Maryland Court of Special Appeals, 7th Appellate Judicial Circuit, JD from Washington College of Law at The American University, BA from Syracuse University, Degree from Hague Academy of International Law). Irma S. Raker. Sy-Lene of Wash., Inc. v. Starwood Urban Retail II, Court of Appeals of Maryland, 376 Md. 157, 7/29/2003, Lexis.

We turn to the language of the contract, and the heart of the issue before the Court. There is no case law in Maryland construing the term "limit." HN6 **The Oxford English Dictionary includes the following definitions of the word "limit":** "1. **To assign within limits**; to appoint, **fix definitely**; to specify. . . . "2. To confine within limits, **to set bounds to**. . . . Also, **to prohibit** (a person) **from something**. . . . "3. To border upon (a country). . . . "4. To beg within specified limits." VIII Oxford English Dictionary 964 (2d ed. 1989). See also Webster's Third New International Dictionary Unabridged 1312 (Philip Babcock Gove, ed., Merriam-Webster 1986) (defining "limit" as: "to assign to or within certain limits; fix, constitute, or appoint definitely; to set bounds or limits to; to curtail or reduce in quantity or extent"); Random House Webster's College Dictionary 762 (Sol Steinmetz, ed., Random House 2d ed. 1997) (defining "limit" as: "to restrict by or as if by establishing limits; to confine or keep within limits"). Similarly, Black's Law Dictionary defines "limit" as: "1. **A restriction** or restraint. 2. **A boundary** or defining line. 3. **The extent of power, [\*\*\*16] right or authority.**" Black's Law Dictionary 939 (7th ed. 1999). **Each of these definitions of the term "limit" incorporates the concept of a boundary or restraint.** To limit something is to define its extent, and in so doing, to quantify it. Starwood's suggestion that the concept of elimination is contained within the term limit conflicts with this idea that a limit defines an area or range. **In comparing the terms "limit" and "eliminate," we find the analysis of one of our sister states persuasive.** In Alcoholic Beverage Control Bd. v. Helm Hotel Cocktail Lounge, Inc., [\*169] 357 S.W.2d 891 (Ky. 1962), **the Court of Appeals of Kentucky interpreted a statute authorizing the state liquor board to limit the number of liquor licenses it issued. The court in Helm Hotel held that the agency's power to limit did not include the power to eliminate**, stating: HN7 **"As generally understood, a limitation is a boundary, restriction or circumscription of something. There must always be a base upon which the limitation can operate. The power to limit is not the power to destroy the base."** Id. at 892. [\*\*\*17] We agree with Sy-Lene that **"right to limit" does not mean "right to eliminate."** **Under the ordinary meanings of the words, Starwood's right to limit the number of parking spaces did not permit it to reduce that number to zero.** The wording of the contract, however, provides no indication as to what limit is acceptable. Sy-Lene asserts that no less than ten [\*\*548] spaces were intended as the lowest limit. Starwood disputes that there was any intent to restrict its ability to limit the reduced-fee employee parking spaces. Therefore, we must remand to the trial court, and direct it to determine the parties' intentions at the time of the lease's execution. To this end, and in light of the absence of a quantity in the contract, the trial court may permit the parties to submit parol evidence.

**Additionally prefer,**

**Zimbabwe 05** [Zimbabwe. 2005. Constitution of Zimbabwe Amendment (No. 17) Bill, 2005 (H.B. 7, 2005).

[http://archive.kubatana.net/docs/legisl/mdc\\_pro\\_constitution\\_zim\\_amd17\\_050827.pdf](http://archive.kubatana.net/docs/legisl/mdc_pro_constitution_zim_amd17_050827.pdf)

**"term limit" means** the maximum **period** for which a person is permitted to hold or occupy any office or post, whether that period is fixed in relation to the person's age or the length of time that he or she has occupied the office or post, or otherwise.

**Periods necessitate an amount of time and are nonzero.**

**Dale 21** [Physics Stack Exchange. 2021. Infinite time period vs zero time period.

<https://physics.stackexchange.com/questions/611041/infinite-time-period-vs-zero-time-period#:~:text=Mathematically%20periods%20are%20not%20allowed,would%20make%20all%20functions%20periodic.>

Lets suppose a pendulum of infinite length is given a small disturbance. It should take an infinite amount of time to move. Can this be

considered equivalent to the case where the pendulum doesnt move at all,i.e., zero time period? If yes, wouldn't this cause mathematical

inconsistencies(in context to the formula  $T=2\pi\sqrt{\frac{L}{g}}$ )? time Share Cite Improve this question Follow edited Jan 29, 2021 at 16:34 asked Jan 29, 2021 at 16:17 newbie105's user avatar newbie105 29411 silver badge1010 bronze badges 2 **Mathematically periods are not allowed to be 0 since that would make all functions periodic.** – Dale Jan 29, 2021 at 16:34  $\omega=gL$ — $\sqrt{L}=1T=2\pi f$  – Eli Jan 29, 2021 at 16:38 you get this differential equation  $x''+\omega^2x=0$  where  $\omega^2=gL$  thus if  $L$  infinity you obtain  $x''=0$  – Eli Jan 29, 2021 at 16:53

**Violation – they garner offense from 0-yr terms.**

### **Standards:**

**[1] precision – the counter-interp justifies them arbitrarily doing away with random words in the resolution which decks negative ground and preparation because the aff is no longer bounded by the resolution – We can't access Stare Decisis, Judicial Independence, or Politics DA. Independent voter for jurisdiction – the judge doesn't have the jurisdiction to vote aff if there wasn't a legitimate aff.**

**[2] Limits and ground – their model allows affs to defend any restriction of the supreme courts power and not necessarily term limits sense they do away with it entirely— there's no universal DA since each has different functions and political implications — that explodes neg prep and cutting stable neg links impossible — limits are key to reciprocal engagement since they create a caselist for neg prep and it takes out ground like DAs for certain lengths of time i.e. the military spending DA which are some of the few neg generics when affs spec term limits.**

**[3] Iteration—in-depth research motivates advocacy and argumentative reflection, which are the only exportable benefits of debate.**

Dybvig & **Iverson '2k** [Joel; Associate Professor of Communication at the University of Montana; Kristin Dybvig; Director of the undergraduate internship program for the Hugh Downs School of Human Communication at Arizona State University, Ph.D. Interpersonal Communication/ Research Methods Arizona State University; 2000; Debate Central, "Can Cutting Cards Carve into Our Personal Lives: An Analysis of Debate Research on Personal Advocacy," <https://debate.uvm.edu/dybvigiverson1000.html>] brett

Mitchell (1998) provides a thorough examination of the pedagogical implication for academic debate. Although Mitchell acknowledges that **debate provides preparation for participation in democracy**, limiting debate to a laboratory where students practice their skill for future participation is criticized. Mitchell contends: For students and teachers of argumentation, the heightened salience of this question should signal the danger that critical thinking and oral advocacy skills alone may not be sufficient for citizens to assert their voices in public deliberation. (p. 45) Mitchell contends that the laboratory style setting creates barriers to other spheres, creates a "sense of detachment" and causes debaters to see research from the role of spectators. Mitchell further calls for "**argumentative agency** [which] involves the **capacity to contextualize** and **employ** the **skills and strategies** of argumentative discourse **in** fields of **social action**, especially wider spheres of public deliberation" (p. 45). Although we agree with Mitchell that **debate can** be an even greater instrument of empowerment for students, we are more interested in examining the impact of the intermediary step of research. In each of Mitchell's examples of debaters finding creative avenues for agency, there had to be a motivation to act. It is our contention that the **research conducted for competition is a major catalyst to propel** their **action, change** their **opinions, and** to **provide a greater depth of understanding** of the issues involved. The level of research involved in debate creates an in-depth understanding of issues. The level of research conducted during a year of debate is quite extensive. Goodman (1993) references a Chronicle of Higher Education article that estimated "the level and extent of research required of the average college debater for each topic is equivalent to the amount of research required for a Master's Thesis (cited in Mitchell, 1998, p. 55). With this extensive quantity of research, debaters attain a high level of investigation and (presumably) understanding of a topic. As a result of this level of understanding, debaters become knowledgeable citizens who are further empowered to make informed opinions and energized to take action. Research helps to educate

students (and coaches) about the state of the world. Without the guidance of a debate topic, how many students would do in-depth research on female genital mutilation in Africa, or United Nations sanctions on Iraq? The competitive nature of policy debate provides an impetus for students to research the topics that they are going to debate. This in turn fuels students' awareness of issues that go beyond their front doors. Advocacy flows from this increased awareness. Reading books and articles about the suffering of people thousands of miles away or right in our own communities drives people to become involved in the community at large. Research has also focused on how debate prepares us for life in the public sphere. Issues that we discuss in debate have found their way onto the national policy stage, and training in intercollegiate debate makes us good public advocates. The public sphere is the arena in which we all must participate to be active citizens. Even after we leave debate, the skills that we have gained should help us to be better advocates and citizens. Research has looked at how debate impacts education (Matlon and Keele 1984), legal training (Parkinson, Gisler and Pelias 1983, Nobles 1985) and behavioral traits (McGlone 1974, Colbert 1994). These works illustrate the impact that public debate has on students as they prepare to enter the public sphere. The debaters who take active roles such as protesting sanctions were probably not actively engaged in the issue until their research drew them in to the topic. Furthermore, the process of intense research for debate may actually change the positions debaters hold. Since debaters typically enter into a topic with only cursory (if any) knowledge of the issue, the research process provides exposure to issues that were previously unknown. Exposure to the literature on a topic can create, reinforce or alter an individual's opinions. Before learning of the School for the Americas, having an opinion of the place is impossible. After hearing about the systematic training of torturers and oppressors in a debate round and reading the research, an opinion of the "school" was developed. In this manner, exposure to debate research as the person finding the evidence, hearing it as the opponent in a debate round (or as judge) acts as an initial spark of awareness on an issue. This process of discovery seems to have a similar impact to watching an investigative news report. Mitchell claimed that debate could be more than it was traditionally seen as, that it could be a catalyst to empower people to act in the social arena. We surmise that there is a step in between the debate and the action. The intermediary step where people are inspired to agency is based on the research that they do. If students are compelled to act, research is a main factor in compelling them to do so. Even if students are not compelled to take direct action, research still changes opinions and attitudes. Research often compels students to take action in the social arena. Debate topics guide students in a direction that allows them to explore what is going on in the world. Last year the college policy debate topic was, Resolved: That the United States Federal Government should adopt a policy of constructive engagement, including the immediate removal of all or nearly all economic sanctions, with the government(s) of one or more of the following nation-states: Cuba, Iran, Iraq, Syria, North Korea. This topic spurred quite a bit of activism on the college debate circuit. Many students become actively involved in protesting for the removal of sanctions from at least one of the topic countries. The college listserve was used to rally people in support of various movements to remove sanctions on both Iraq and Cuba. These messages were posted after the research on the topic began. While this topic did not lend itself to activism beyond rallying the government, other topics have allowed students to take their beliefs outside of the laboratory and into action. In addition to creating awareness, the research process can also reinforce or alter opinions. By discovering new information in the research process, people can question their current assumptions and perhaps formulate a more informed opinion. One example comes from a summer debate class for children of Migrant workers in North Dakota (Iverson, 1999). The Junior High aged students chose to debate the adoption of Spanish as an official language in the U.S. Many students expressed their concern that they could not argue effectively against the proposed change because it was a "truism." They were wholly in favor of Spanish as an official language. After researching the topic throughout their six week course, many realized much more was involved in adopting an official language and that they did not "speak 'pure' Spanish or English, but speak a unique dialect and hybrid" (Iverson, p. 3). At the end of the class many students became opposed to adopting Spanish as an official language, but found other ways Spanish should be integrated into American culture. Without research, these students would have maintained their opinions and not enhanced their knowledge of the issue. The students who maintained support of Spanish as an official language were better informed and thus also more capable of articulating support for their beliefs. The examples of debate and research impacting the opinions and actions of debaters indicate the strong potential for a direct relationship between debate research and personal advocacy. However, the debate community has not created a new sea of activists immersing this planet in waves of protest and political action. The level of influence debater research has on people needs further exploration. Also, the process of research needs to be more fully explored in order to understand if and why researching for the competitive activity of debate generates more interest than research for other purposes such as classroom projects. Since parliamentary debate does not involve research into a single topic, it can provide an important reference point for examining the impact of research in other forms of debate. Based upon limited conversations with competitors and coaches as well as some direct coaching and judging experience in parliamentary debate, parliamentary forms of debate has not seen an increase in activism on the part of debaters in the United States. Although some coaches require research in order to find examples and to stay updated on current events, the basic principle of this research is to have a commonsense level of understanding (Venette, 1998). As the NPDA website explains, "the reader is encouraged to be well-read in current events, as well as history, philosophy, etc. Remember: the realm of knowledge is that of a 'well-read college student'" (NPDA Homepage, <http://www.bethel.edu/Majors/Communication/npda/faq2.html>). The focus of research is breadth, not depth. In fact, in-depth research into one topic for parliamentary debate would seem to be counterproductive. Every round has a different resolution and for APDA, at



least, those resolutions are generally written so they are open to a wide array of case examples, So, developing too narrow of a focus could be competitively fatal. However, research is apparently increasing for parliamentary teams as reports of "stock cases" used by teams for numerous rounds have recently appeared. One coach did state that a perceived "stock case" by one team pushed his debaters to research the topic of AIDS in Africa in order to be equally knowledgeable in that case. Interestingly, the coach also stated that some of their research in preparation for parliamentary debate was affecting the opinions and attitudes of the debaters on the team. Not all debate research appears to generate personal advocacy and challenge peoples' assumptions. Debaters must switch sides, so they must inevitably debate against various cases. While this may seem to be inconsistent with advocacy, supporting and researching both sides of an argument actually created stronger advocates. Not only did debaters learn both sides of an argument, so that they could defend their positions against attack, they also learned the nuances of each position. Learning and the intricate nature of various policy proposals helps debaters to strengthen their own stance on issues.

**TVA – Affirm Term Limits to increase experiential and demographic diversity on the Court to displace its control at the hands of Capitalist Elites.**

**Presume impact turns false, as we lacked equal prep to prove them wrong.**

### **Paradigm issues**

**Drop them, because a] deter future abuse – rectify the skew and b] you'd drop your whole advocacy anyways.**

**Competing interps— a] reasonability invites judge intervention and b] you can't be reasonably topical: it's yes/no.**

**No RVIs: a] Logic, you don't win for being topical; b] Baiting, encourages abuse to bait T.**

**1NC theory first – I was only abusive cuz they were. It's my only way to check back**

## Card for 24 hr limit

**‘Term limits’ is a restriction that presupposes an elected office exists – this means a “24 hr term limit” is NOT a term limit**

**Meleen** [Michele; M.S.Ed.; YourDictionary; “What Are Term Limits in the US Government?”; <https://examples.yourdictionary.com/what-are-term-limits-in-the-u-s-government.html>] brett

**Term limits** for different positions **in the U.S. government** ensure the government remains a democracy.

Government officials are typically chosen through elections but may be limited in the number of times they can be elected. Explore which

positions have term limits and which don't. US Federal Government Term Limits **A term limit is a “legal restriction that limits**

**the number of terms a person may serve in a particular elected office.”** Some federal term limits are

**written in the U.S. Constitution, while others are not formally addressed.** US President Term Limit The 22nd

Amendment of the United States Constitution was ratified in 1951 and sets how many terms a U.S. President can serve. Prior to 1951, there

were no term limits for U.S. Presidents. However, many Presidents, including George Washington, subscribed to an unwritten rule that a

President should only serve two terms. A Presidential term lasts four years. The 22nd Amendment states: No one can be elected President

more than twice. Anyone who acted as President for more than two years during a term where someone else was elected President can only be

elected President once. US Vice President Term Limit The U.S. Vice President is elected to a four-year term with the President. There are

currently no limits on the amount of terms a person can serve as Vice President. **US Supreme Court Term Limits U.S. Supreme**

**Court Justices are nominated by the U.S. President and confirmed by a U.S. Senate vote.** The U.S. Constitution

only says that Justices “hold their offices during good behavior,” which has been interpreted to mean they serve until they decide to leave or

are impeached. **The average length of time served for U.S. Supreme Court Justices is 16 years. Justice**

**William O. Douglas served the longest term, staying with the court for just over 34 years.**

## AT Abolish SCOTUS – T

Interpretation: Limit means to bound.

Merriam-Webster <https://www.merriam-webster.com/dictionary/limit>)

**something that bounds, restrains, or confines**

That makes it distinct from other words like delete or abolish since ‘term-limit’ implies the existence of a term to actually limit – otherwise it would say term-deletion.

### Vote negative:

[1] Precision — anything else justifies the aff arbitrarily jettisoning words in the resolution at their whim which decks negative ground and preparation because the aff is no longer bounded by the resolution.

[2] Predictability and ground – deletion of the Supreme Court is never in the topic lit since no legal scholars would seriously entertain the idea of being able to fiat away an entire branch, creates an egregious abuse of fiat that avoids core negative ground like politics DAs, doctrinal stability, agent CPs, and Ks of liberal reform, makes testing impossible. Deletion of the Supreme Court makes the topic bidirectional for K teams that deck switch-side debate – key to advocacy skills and argumentative reflexivity.

### Paradigm issues

Drop them, because a] deter future abuse and b] you’d drop your whole advocacy anyways.

Competing interps— a] reasonability invites judge intervention and b] you can’t be reasonably topical: it’s yes/no.

No RVIs: a] Logic, you don’t win for being topical; b] Baiting, encourages abuse to bait T.

1NC theory first – I was only abusive cuz they were. It’s my only way to check back

### **AT Potential Abuse**

- 1] Potential abuse doesn't justify in round abuse: if Affs were never fair, we wouldn't even have a substantive debate from the start
- 2] Just because I am holding scissors doesn't mean you should shoot me first to prevent murder: hypocritical and illogical

## **AT Identity K's / Abolish SCOTUS**

## 1NC – State Inevitable

### **Governance is inevitable and turns case**

**Renaux 19** [Valarie, 5/29/19, Philosophy. Writing on Marxism, eliminativism in philosophy of mind and metaethics, suffering(-focused ethics), and philosophical pessimism, “Marxism and the State”, <https://medium.com/@valarierenaux/marxism-and-the-state-eeb6ceca4515> //GBS Majeed & Jacobs]

Here, perhaps, is a manifestation of one of the foundational flaws in anarchist theory: its veneration of human nature (as it understands it, at least). Bakunin claims that “human nature” makes corruption and counterrevolutionary, anti-proletarian actions inevitable once a section of the working class seizes power. Why does he say this? What proof does he have? In a word, none. ‘Human nature’ as it is predominantly understood is nothing more than our proclivity towards certain actions within specific material contexts, which are subject to change — and thus so are the proclivities. Even if it could be established that capitalist society generates some kind of fundamental proclivity among the working class and even humanity as a whole to act out of greed, selfishness and short-termism (which is practically speaking impossible to prove anyway), it does not follow that this is inherent and unavoidable in the human animal itself as some kind of abstract template for our actions. By elevating the human creature itself to the level of pseudoreligious ideology, anarchism practises exactly the same form of ideologising that the bourgeoisie and the feudal and even patrician classes before them have long done. Marxism rightfully does not concern itself with such sophistry, with such meaningless protestations against placing power in the hands of the working class and its party. “During its lifetime the working class state will continually evolve up to the point that it finally withers away: the nature of social organisation, of human association, will radically change according to the development of technology and the forces of production, and man’s nature will be equally subject to deep alterations always moving away more and more from the beast of burden and slave which he was.”<sup>24</sup> This links closely with the final problem with Bakunin and the anarchists’ position on the state that we shall address here. Bakunin describes his fictitious once-proletarians as “look[ing] down” on the workers from the “governing heights of the State.” What does this mean? It means, in one clear sense, that Bakunin sees the state as something distinct from society, something separate from and alien to it, something parasitical and detached from the productive elements of society. But never has or will the state be something “imposed on society from without,”<sup>25</sup> something that stands above class distinctions, or gendered divisions in labour, or religious and secular ideology alike, or indeed anything else. **The state is not separate from society; it is society, it is the inevitable and necessary product of a society as it exists at certain stages of historical-economic development, and without it, the society would be reduced to utter barbarism, open, ubiquitous kinetic violence, a marked decline in living standards for all, both relative and actual, a severe degradation in the quality of goods, and so on. In a word, you would have social and even civilisational collapse. This is because ‘society’ is not one harmonious thing; rather, it is the aggregate of all human social and economic relations, and these humans and their socioeconomic situations are anything but uniform. Without the state, with its monopoly on violence and its often dominant role in the cultural narrative, these contradictions — irreconcilable contradictions — would be acted out through direct, physical struggle. There are but two outcomes to such a thing: either a state will be formed anew, but only after an extended period of acute crisis dealing devastating damage to all, and so the destruction of the state (and more precisely the failure to build a new state to replace it) was not only pointless but entirely undesirable to the society, or, worse still, the construction of a new state, for whatever reason, fails, and the population collapses into a regressed state of primitive-communism.** History would have been reset. There does not exist some dichotomy of society and state, only the existence of a society with a state, and if a society has a state, it needs a state, and simply seeking its destruction is entirely misguided and naïve, springing from a fundamental misconstruing of what the state is, what society is, and what one’s own material interests are. In a word, it is idealism — it is utopianism. It should be evident from the rest of this essay that the state is not something that can be simply dismantled and destroyed by force and violence; it can only “wither away” when the material conditions are right. To attempt to act outside of history as anarchism does is dangerous to all, never mind arrogant and individualist. It is a position in absolute opposition to the interests of the workers. General remarks on the nature of class dictatorship Mao Zedong famously taught that “[p]olitical power grows out of the barrel of a gun.”<sup>26</sup> **Truly there is no more succinct and accurate description of politics — which is, at its core, the systematised control and regulation of violence — than this.** Anything that suggests otherwise is an obfuscation; such obfuscations serve an agenda, and all but always one of the ruling class. The class destined to vanquish class society itself has no need of the propaganda and sophistry of traditional class rule; we can, **and should, state in no uncertain terms that the only rational expression of our political interests is a class dictatorship won and maintained by force of arms for the exclusive benefit of our economic class at the expense of all others.** The proletarian state represents, for the first time in history, the material and thus socio-political interests of the vast majority of the people. From this simple fact an

equally simple conclusion can be drawn: namely, that both when the working class is barred from power and when it holds it, it is only benefited by a frank and open understanding of the thoroughly class- and violence-based nature of state power. In the former situation, the proletarian is aware that society is organised upon his exploitation and that he has no material interest whatsoever in the preservation of the status quo, while in the latter, he sees that he should not be afraid of 'tyranny,' that the bourgeoisie are justly and necessarily without power and rights, and that should they be granted them, they will use them to undermine and overthrow the régime and institute terror of a previously unprecedented scale and harshness. In short, the stripping away of the pretensions and illusions of the state represent, and reinforce, heightened class consciousness. In terms of our interests, power is best manifested naked, and as proletarians, we have, unequivocally, a side on which to fall in the class struggle. As such, our political goals must include as a matter of necessity the seizure of state power. **The lessons of the Paris Commune and of all revolutionary ventures throughout history is that**

**the revolution that does not seize state power is thwarted.** Never, in all human history, has this truth been countered.

What's more, the nature of the dictatorship of the proletariat is that it is exactly that: a dictatorship. All true communists know this to be so, and do not fear, but relish the opportunities that lie in controlling the state. The state is a tool — a weapon, and no weapon has morals in and of itself. Only when the sword is taken up and brandished in anger does it become an instrument of war and not simply a sliver of metal. The state is much the same. The anarchic view of the state is one of an enemy of 'the people,' one that is inherently undesirable and wretched, whoever straddles it. Marxism is not so naïve, not so utopian: the state serves her masters, and serves them well; when the working class reigns, the state delivers its Terror upon the counterrevolution and with it the socialist society can progress, in time, to a communist one.

Without it, the working class movement is simply destroyed the instance the bourgeois reaction can organise itself anew. Marxism is scientific socialism; it is not utopianism. It would be false and misleading to claim that Marxism has ends; rather, it merely has analyses and observations. In their scientific study of the march of history and the intricacies of the capitalistic mode of production, the Marxists have discovered and laid out the series of progressions and laws that, hopefully, this essay has allowed the reader to understand, if only in brief: that "the history of all hitherto existing society is the history of class struggle,"<sup>27</sup> that the working class must smash the existing bourgeois state, **that the**

**working class must create its own state to serve its own needs, and that this state must inevitably be the last stage of the state in all history.** Marxism does not talk of that which is impossible; only that which is possible. The

triumphs of the working class movement during the twentieth century prove this to be so, but much that was won has since been lost. As the Great Acceleration of the Anthropocene deepens, the need to place power in the hands of the workers intensifies with every passing week towards a singularly apocalyptic zenith. In the past, Marxists have rightly given the slogan socialism or barbarism?, but today, that is no longer sufficient: today, it must be socialism or extinction? In matters of war and revolution, liberalism's façades are quick to fall from the eyes of the class conscious worker. The premier and central issue of working class politics must be the conquest of state power. Only then can we change the world.

# Democracy Turn

## A successful democracy is impossible with capitalism

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Liberal democracy gives us essential rights like free speech and civil liberties. But without challenging the domination of capital, liberal rights will always be curtailed by the power of the rich. By the end of his life, philosopher

John Rawls had become a persistent critic of capitalism. (Frederic Reglain / Gamma-Rapho via Getty Images) "Nationalism," the new issue of *Jacobin* is out now. Subscribe today and get a yearlong print and digital subscription. Review of *Socialism for Soloists* by William Edmundson (Polity, 2021) John Rawls was arguably the greatest liberal philosopher of the twentieth century. But by the end of his life — he died in 2002, at the age of eighty-one — he had become a persistent critic of capitalism. In his 2001 book, *Justice as Fairness: A Restatement*, Rawls argued that

competitive capitalism, and even an extensive Nordic-style welfare state, **didn't meet the requirements of a just society.**

"Welfare state capitalism," he wrote, "permits a small class to have a near monopoly of the means of production," which undermines two of the core principles of justice: that political liberties are held equally by all and that the social order works to the greatest advantage of the least well-off. Rawls's preferred

alternative was a social order — either a "property-owning democracy" or "liberal socialist regime" — that would **set up a constitutional framework**

for democratic politics, guarantee the basic liberties with the fair value of liberties and fair equality of

opportunity, and regulate economic and social inequalities by a principle of mutuality." Firms would be democratically

managed, but would still "carry on their activities within a system of free and workably competitive markets" with "free choice of occupation" also guaranteed. Unfortunately, he passed away without providing much more in the way of details. In his great book *John Rawls: Reticent Socialist* (2017), the philosopher William Edmundson took Rawls's positions seriously and worked out his radical egalitarianism in far greater depth. Now Edmundson has released a new book, *Socialism for Soloists*, which builds on his earlier work to contend that "justice requires socialism," and of a liberal-democratic kind. Most innovatively, Edmundson questions the popular notion that socialists must have the bloodiest of bleeding hearts by insisting that even the staunchest individualists should be socialists. Much of Edmundson's argument is technical and scholarly. But it nevertheless arms us with extremely useful intellectual arguments in the battle of ideas.

*Socialism and Equality* Edmundson's aim is to demonstrate how an individualist commitment to liberal principles should lead to a further commitment to democratic socialism. This kind of enterprise will disappoint some leftists for its lack of political economy, and it leaves Edmundson open to the objection that his abstract moral theorizing is ahistorical and insufficiently materialist. But to my mind, a socialism that doesn't ground itself in a morally defensible conception of justice is one that will prove unappealing in the long run. Without a substantive, persuasive vision of the principles of justice that underpin socialism — and an account of how they cash themselves out practically — anti-capitalist critique becomes an exercise in trashing the status quo without offering any meaningful alternative. Edmundson provides us with a plausible philosophical basis for democratic socialism that doesn't ask us all to suddenly become angels — and for that he deserves a lot of praise. The basic principles Edmundson develops are clearly modeled on Rawls's famous principles of justice, asking what kind of society "soloists" — self-interested and rational individualists who "recognize the pressing need for social rules and a common power to enforce them" — would choose to create through a social contract. Edmundson argues that a just society would respect a "principle of political equality: citizens who are equally able and equally motivated should have an equal chance to influence political decisions, regardless of wealth and income" and a "principle of reciprocity: economic inequality is allowed so long as it can be seen to benefit all representative social classes." Of the two principles he gives the second considerably shorter shrift, which is disappointing given its importance. Edmundson simply argues that individuals "contracting into" society would be willing to tolerate some forms of economic inequality if they would make everyone better off. This is partly Edmundson's response to the well-worn charge that socialists are motivated less by a concern for the poor than by envy of the well-off. And he is correct that any argument which says the poor can be poorer so long as the gap between rich and destitute is narrower will appeal to no one. As Edmundson points out, Karl Marx and Friedrich Engels themselves weren't strict egalitarians. In the *Critique of the Gotha Program*, Marx lampooned strict egalitarians, arguing that the unequal needs of equal individuals would require them to receive unequal shares to ensure the flourishing of all. Yet Edmundson provides little sense of how much economic inequality is too much, arguing that "empirical research" may point us to the sweet spot in the future. We're fortunate that scholars like Thomas Piketty and David Harvey are helping us fill this gap in knowledge. But it's hard to shake the feeling that Edmundson could have provided more immediate guidance on this important point. *Socialism and Equal Political Liberties* Edmundson spends

far more attention defending the socialist implications of the first principle, which is where the real innovation in his argument kicks in. He points out that most contemporary liberal thinkers express a nominal commitment to equal political liberties for all. Yet virtually none of them have taken seriously how private ownership of the means of production — which Edmundson defines as "those resources and instrumentalities [which] . . . are widely indispensable means of productive activity (or their products are); and they are impossible to be severally owned" — fundamentally undercuts this commitment to equal political liberties for all. In a capitalist society, those individuals — including wholly artificial people like corporations — who own the means of production have far more power and influence than those who do not. They get far more value from their political liberties and can even use those liberties to exclude others from participation, ensuring even laws and regulations meant to benefit everyone equally in fact largely benefit them. Edmundson's argument isn't just a principled one. He

marshals both historical and contemporary evidence to show that the equal value of political liberties for all and private ownership of the means of production can never be harmonized. His evidence ranges from the immense influence of industrial capital on the politics of anglophone nations from the early nineteenth century onward to the power that modern big tech wields over the freedom of speech and expression of billions across the globe. Consequently, he says, we have a choice: either maintain our liberal-democratic convictions or accept the domination of capital. Edmundson argues that no rational individualist could opt for the latter since it generates tremendous instability and ensures that, far from being an efficient system of cooperation for the benefit of all, political rules elevate the wealthy and powerful to still higher peaks of wealth and power. The vast majority of us are left on the outside looking in. A just society, Edmundson says, would forbid private ownership of the means of production and bring it into public hands, democratically managing the economy for the benefit of all. This is a very powerful argument,

showcasing how genuinely **democratic liberalism not only can coexist with socialism but requires it.**



## Cap K

## 1NC—Cap

The Supreme Court as a state institution serves to represent the interests of the ruling class. The plan saves Judicial legitimacy from itself, protecting the rule of the bourgeois and halting social energy from below.

**Peralta '20** [Oscar; 10-26-20; writing for the International Marxist Tendency; "The US Supreme Court and the Truth About Capitalist Justice"; <https://socialistrevolution.org/the-us-supreme-court-and-the-truth-about-capitalist-justice/>] brett + ella

With the imminent appointment of Amy Coney Barrett, the unelected and unaccountable US Supreme Court (SCOTUS) has received an unusual amount of attention <sup>this election cycle</sup>. Unable to offer an appealing candidate or any prospect for real change, the Democrats have rested their case for "voting blue" almost exclusively on a new variant of lesser evilism—"harm reduction." <sup>They argue that</sup> only by voting for Biden can the Supreme Court be protected from additional Trump appointments, which would further tip the balance in favor of the current conservative majority. Under this pressure, many people <sup>will</sup> hold their noses yet again and vote, not so much for Biden as against Trump. But does this make any real difference when it comes to the decisions of the court? A closer look at the history and workings of the country's highest court reveals that, as a key institution in capitalist society, the court is not the "last line of defense for progress" but rather the opposite—regardless of its composition. Even before the passing of Ruth Bader Ginsburg <sup>(RBG)</sup>, Democrats sought to sweeten the unpalatability of a Biden vote by equating it with retaining the deceased liberal icon's seat. <sup>RBG was expected to retire due to age and health reasons during the next administration, such that whoever won this election would get to nominate her replacement. However, in a vagary of fate, she passed away earlier than she had planned, and Donald Trump wasted no time announcing his nominee to replace her. His choice: another woman—Amy Coney Barrett—a federal appellate judge known for her ultraconservative record and religiosity. Senate Republicans blocked the confirmation of Obama's SCOTUS nominee, Merrick Garland, for almost a year, in an unprecedented and controversial move because his nomination was too close to the 2016 election. But prominent Senate Democrats declared from the outset that they did not intend to block Barrett's confirmation process, currently underway, although the election is just days away.</sup> Showing the duplicity and lack of principle that characterizes his party, Biden said during his first debate with Trump that he is "not opposed to <sup>the justice</sup> Barrett; she seems like a very fine person." In the same breath, he added that her nomination put <sup>Roe v. Wade and</sup> the right to abortion "on the ballot" in 2020 and that only he can save it. Thus, the Democrats want us to believe that Biden is our only chance against a menace he does not oppose. Lenin explained long ago that the bourgeois state, despite its "separation of powers," formal legalities, and neutral facade, is ultimately an instrument of oppression of the capitalist class over the working class. <sup>As one of the three branches of the bourgeois state,</sup> the judiciary is an integral part of capitalist rule, as it cloaks it with the appearance of fairness. <sup>Bourgeois idealism vs. scientific socialism</sup> The US Constitution is the legal blueprint that grants the bourgeois state its authority. It divides state power into three branches: the legislative, which creates the laws; the executive, which enforces the laws; and the judiciary, which interprets the laws, including the Constitution itself. According to bourgeois ideology, the rule of law, beginning with the Constitution, expresses the population's will, setting forth the foundation of society and the framework of social relations. This is pure idealism. Firstly, the Constitution was not drafted or ratified in any democratic sense "by the population." It was written and approved exclusively by members of the ascendant American bourgeoisie, and it is above all, a reflection of their own will and class interests. <sup>A materialist analysis shows</sup> the inverse relationship between the rule of law and the foundation of society. <sup>As Marx explained,</sup> society's ultimate foundation lies in its economic structure, constituted by its concrete forces and relations of production. <sup>And</sup> although there is a dialectical interrelation between "base" and "superstructure," it is upon this foundation that arise the dominant ideologies of the era, including law and politics. <sup>These</sup> "ruling ideas" are nothing more than the ideal expression of the dominant material relationships, the dominant material relationships grasped as ideas; hence of the relationships which make the one class the ruling one, therefore, the ideas of its dominance. <sup>Simply stated,</sup> the legal forms

**in society cannot supersede its property forms**. As the judiciary's highest body, **the Supreme Court** has the ultimate power to decide the meaning of words in any given context. This **gives** the "**rule of law**" the necessary **malleability** by which the outcome **most beneficial to bourgeois class interests and rule** can be secured. The court is a **profoundly conservative institution**, as **the only** formal **limit** to the judges' discretion **is precedent**, that is, the court's past decisions, **which** helps **ensure** the continuation of **the status quo**. This doesn't mean, however, that **the court** will not disregard precedent altogether when it is in their interests to do so. If changed conditions and, above all, a changed class balance of forces necessitates this or that adjustment, they **will allow some cosmetic changes—within the limits of bourgeois property relations**. The myth of the court's independence Bourgeois theory posits that the Supreme Court's decisions are independent and above politics, because the judges are appointed for life, so they are not subject to electoral or other pressures. However, **judges do not exist in a vacuum, divorced from their material and social context**. Far from it. Like all federal court judges, Supreme Court **justices are nominated by the President and confirmed by the Senate**. This means that **no one can be considered for the position without first being handpicked by the President**. The confirmation process <sup>then</sup> requires a majority vote in the Senate—itself a **highly undemocratic body**. After politicians from both **capitalist parties** have scrutinized and grilled the **judicial candidate** on all aspects of their life, background, and "judicial philosophy" or worldview to their satisfaction, they are usually, though not **always approved**. As a side note, credible sexual harassment and sexual assault allegations have not disqualified nominees, as the two judicial candidates who have faced such accusations remain on the Supreme Court to this day. **Of course, no candidate gets this far without having demonstrated an absolute allegiance to the bourgeois legal order**. All except one of the current justices were federal appellate judges, which means not only that they had already gone through a similar vetting process, but that their judicial record since then is fully known. **All except one served previously at the highest levels of the federal government's executive branch, and half of them worked at some point in legal academia, whose role in society is to intellectually justify the legal framework for bourgeois property relations**. Marx's observation that **"it is not the consciousness of men that determines their being but, on the contrary, their social being that determines their consciousness"** is instructive here. **By the time they are up for consideration, these individuals are naturally entrenched in their worldviews**. They are not about to suddenly disavow the legal regime that they have **spent their lives propping up** and which is the source of their stature as individuals within bourgeois society. A brief history of the court Throughout its history, the Supreme Court has played a conservative role in relation to the social forces pushing against the system's boundaries. It has made a limited handful of **"progressive" rulings** only after a decisive majority of the public already supported the position in question and **only to halt the underlying social pressures** from building further **into a potential threat to the stability of capitalist rule—to tame rather than propel progress**. In 1857, when the horror of slavery was tearing society apart and leading inexorably toward civil war, the court sided with slaveowners in Dred Scott v. Sandford. It ruled that black people, even if free, could never be citizens and that because slaves were not considered humans but property under the fifth amendment, any law depriving a slave owner of such property was unconstitutional. In 1873, the court gutted the 14th amendment "privileges and immunities" clause passed five years earlier to extend civil rights to former slaves, ruling that it only protected legal rights against the federal government and not state governments. This enabled southern states to codify a regime of racial segregation by imposing so-called Jim Crow laws. By 1896, the enormous strides in civil rights for black people made during the Reconstruction era had been all but liquidated and replaced by Jim Crow. The Northern capitalists, having achieved their aim of replacing chattel slavery with wage labor, allowed the old slaveocracy to regain its foothold under a new guise. In Plessy v. Ferguson, the court expressly ruled that states' racial segregation laws were constitutional. person drinking from a color-designated water fountain In Plessy v. Ferguson, the court expressly ruled that states' racial segregation laws were constitutional. / Image: Free Public Domain via Pxhere The years from 1897 to 1937 have become known as the Lochner era. During these 40 years, the court issued numerous decisions striking down state and federal worker protection laws passed during the "Progressive Era" and the Great Depression, such as minimum wage and child labor laws. This period gets its name from the 1905 case Lochner v. New York in which the court held that a New York law limiting the workweek of bakery employees to no more than 60 hours was unconstitutional. Thus, the concessions that the capitalist class had been forced to grant the increasingly combative labor movement with its legislative hand were quickly taken away by its judicial hand. In 1919, in Schenck v. US, the court upheld the conviction of the Socialist Party's general secretary in Philadelphia for distributing leaflets urging young men to resist the draft during WWI, ruling that the First Amendment's protections for freedom of speech did not apply in such a situation. This exemplifies the elasticity of the court's power of interpretation. In 1944, toward the end of WWII—a war allegedly fought, at least in part, to liberate persecuted ethnic minorities from concentration camps—the court upheld the federal government's forceful removal and internment into concentration camps of 120,000 people of Japanese descent in Korematsu v. US. Just ten years ago, in Citizens United v. FEC, the court held that the First Amendment right to free speech gives corporations the right to spend unlimited money on propaganda intended to influence the outcome of elections. Yet again, the power of interpretation serves the interests of capital. These infamous decisions are reflective of the real role of the court throughout US history. The totality of its record provides unassailable proof that the Supreme Court has ever only served the material interests of the capitalist class. Workers have never had a stake in it and never will. The myth of RBG Despite the widespread belief that individual justices can sway the court in a progressive direction, history shows otherwise. An apt case study is "woke" hero RBG. Not only were RBG and celebrated conservative superstar Antonin Scalia "best buddies" (her words) outside the court—going to the opera, traveling the world, and spending every New Year's Eve together for decades—but these supposedly polar opposite icons agreed in their court rulings 70% of the time. Ruth Bader Ginsburg Contrary to her mythologized "wokeness," RBG's history on the court shows that her primary interest is in defending the bourgeois order. / Image: Free Public Domain via Wikimedia Commons In one of her last decisions, RBG—who defended Trump's previous appointee, alleged sexual predator Brett Kavanaugh, and called him a "very decent, very smart" person—sided with the Trump administration's efforts to speed the deportation of asylum seekers, depriving refugees of their day in court even if their deportation orders were flawed. In a ruling made three months before her death, RBG voted to greenlight the construction of an \$8 billion, 600-mile-long oil pipeline under indigenous Appalachian territory and national forests. This, at a time when climate change

is ravaging the planet. Around the same time, amidst the George Floyd protests, RBG, who called Colin Kaepernick's peaceful protest of taking a knee "dumb and disrespectful," joined the court in declining to reexamine the doctrine of "qualified immunity" which shields police from lawsuits in cases of police brutality and police murders. So the next time someone tries to shame you into voting Democrat in order to ensure the "progressive nature" of the Supreme Court, remind them that serious workers ought to put facts before lore. The working class cannot rely on unelected judges—handpicked by capitalist politicians and interpreting laws written by and for the rich—to defend our fundamental rights or move society forward. We can only rely on our

own strength, organizations, and institutions to protect and advance our interests. **The Supreme Court is a key pillar of capitalist rule and cannot be reformed into something that it is not. Once capitalism has been overthrown and consigned to the trash heap of history, the entire bourgeois legal system—including the court that stands at its pinnacle—will be on the pile of historical garbage along with it. In place of the bloated bourgeois apparatus, the workers will erect truly democratic and accountable organs to solve the problems of society.**

## **Capitalism is unsustainable and causes extinction from warming, mineral and water wars.**

**Reese 20** [Ted; 9-2-20; author of Socialism or Extinction and The End of Capitalism: The Thought of Henryk Grossman, "'Socialism or extinction' is a scientific fact, not just a slogan", <https://grossmanite.medium.com/socialism-or-extinction-is-a-fact-not-a-slogan-3cb97b198c50>, emuse)] recut brett

**Socialism or extinction** is not just a slogan, though; it **is a statement of scientific fact.** If XR does not stand for socialism, then it must necessarily stand for extinction, rendering its own alleged purpose redundant. In short: capitalism is a profit-dependent system, and must therefore continue to expand production in order to keep investment flowing and profits rising (in absolute terms). And since profit arises from capital's exploitation of commodity-producing labour, the intensity of the production based on fossil fuel and toxic, fuel-intensive metal mining is (increasingly) necessary. To flesh this out a bit more: **capital's exploitation of commodity-producing labour is the sole source of profit** — the capitalist appropriates surplus value (surplus labour time) from the worker, i.e. the worker keeps less value than they create, covering their living costs (necessary labour time), and surplus value is then realised through commodity sales. This social relation is obscured by the money-wage relation. **Therefore, capital's** evermore demanding need to accumulate is based on the **continual expansion of intensive production**, i.e. the extraction of fossil fuel and metals, deforestation, intensive farming, etc., that **is releasing carbon** and other 'greenhouse' emissions — not to mention that they are fuel-intensive practices in the first place and toxic to the local environment — trapped in nature into the atmosphere, **making the planet warmer and threatening runaway global heating that, according to numerous scientific studies, will make the planet uninhabitable for humans, probably before the end of the present century.** (Capital's exploitation of labour is therefore also the root cause of alleged plummeting sperm counts (down a reported 59% from 1973 to 2011), further threatening extinction. The microplastics, nanoparticles and toxic chemicals sourced from fossil fuels and metal mines and consumed in everyday products penetrate and damage human cells.) Although extractive industries are usually now very capital-intensive — the source of capitalism's (now existential) economic crisis — the rate of exploitation of the remaining workers is very high. It is not capitalism's need for 'infinite growth on a planet of finite resources', as most leftists seem to put it, that is the central or immediate problem; rather, it is the pace of production and its expansion — determined by the size of an ever-larger total capital and its need to expand yet further by feeding off labour — relative to nature's ability to replenish itself (something capitalism's dependence on intensive extraction obviously hinders). **Just as surplus value is converted into capital faster than it is produced — resulting in** (on average) **decennial recessions** and, eventually, a historical limit to capital accumulation — so nature is converted into capital faster than it can be replenished. Compound accumulation Fossil fuels (petroleum, coal, natural gas and oil) would shrink to roughly half of total primary energy supply in 2050, from about 77% in 2020 — down from 81% in 2010 — if the world meets the 'minimum' internationally agreed target of 2 degrees Celsius warming, according to S&P Global Platts Analytics. (Even 1C has already seen a reported 400,000 people (and counting) a year dying from climate-related causes; while the Arctic permafrost — containing 1.8 trillion tonnes of carbon, more than twice as much as is currently suspended in Earth's atmosphere — is, we are told,[2] melting 70 years sooner than previously expected. While fossil fuel may fall to 50% of the mix of energy production, its absolute production may rise, since economic output under capitalism tends to double every 20 years.[3] As Jason Hickel writes in his book Less Is More, there was "a steady rise of material use in the first half of the 1900s, doubling from 7 billion tons per year to 14 billion tons per year. But then, in the decades after 1945, something truly bewildering happens... **material use explodes**: it reaches **35 billion tons by 1980**, hits **50 billion tons by 2000**, and then screams up to an eye-watering **92 billion tons by 2017**... This **increase in material use tracks** more or less exactly with the **rise of global GDP**. The two have grown together in lockstep. **Every additional unit of GDP means roughly an additional unit of material extraction.** "There has been a radical acceleration of fossil fuel use since 1945, rising along with the explosion in both GDP and material use. And carbon emissions have gone up right along with it. Annual emissions more than doubled from 2 billion tons per year to 5 billion tons per year during the first half of the 1900s. During the second half of the century they rose fivefold, reaching 25 billion tons by the year 2000. And they have continued to rise since then, despite a string of international climate summits, reaching 37 billion tons in 2019. Of course, there is no intrinsic relationship between energy use and CO2 emissions. It all depends on what energy source we're using. Coal is by far the most carbon-intensive of the fossil fuels. Oil — which has grown much more quickly than coal since 1945 — emits less CO2 per unit of energy. And natural gas is less intensive still. As the global economy has come to rely more on these less polluting fuels, one might think that emissions would begin to decline.... [But] because GDP growth is **driving total energy demand up** at such a **rapid pace** ... these **new fuels** aren't replacing the older ones, they **are** being **added on top of them**. The shift to **oil and gas** hasn't been an energy transition, but an energy addition. The same thing is

happening right now with **renewable energy**. To keep energy flowing when the sun isn't shining and the wind isn't blowing will **require enormous batteries** at the grid level. This means **40 million tons of lithium** — an eye-watering 2,700% increase over current levels of extraction... It takes 500,000 gallons of water to produce a single ton of lithium. Even at present levels of extraction this is causing real problems. In the Andes, where most of the world's lithium is located, **mining companies are burning through the water tables and leaving farmers with nothing to irrigate their crops**. Many have had no choice but to abandon their land altogether. Meanwhile, chemical leaks from lithium mines have poisoned rivers from Chile to Argentina, Nevada to Tibet, **killing off whole freshwater ecosystems**. The lithium boom has barely started, and it's already a **catastrophe**. Today the world is producing 8 billion more megawatt hours of clean energy each year than in 2000. That's a lot — enough to power all of Russia. But over exactly the same period, economic growth has caused energy demand to increase by 48 billion megawatt hours. "There's also something else going on. With every year that goes by, it becomes more and more difficult to extract the same amount of materials from the earth. Today, three times more material has to be extracted per unit of metal than a century ago." [4] **There is no such thing as 'green capitalism'**. The 'Green New Deal' proposed by social democrats — which actually involves privatising the last areas of common land — is species suicide. Socialism and non-intensive production Under capitalism, commodities are only produced if they are profitable, i.e. if labour is exploitable enough to expand capital. They are use-values/utilities and exchange-values. Under socialism, goods (having been decommodified) are produced if we deem them to be useful, via **democratic regulation and demand**. They are just use-values and socially owned, so no exchange of ownership takes place, i.e. exchange value and profit are abolished. If we deem that a good is not useful since it is damaging the environment or contributing to climate change too much, we can decide not to make it. Or we can find a way of making it that does not damage or exhaust nature. Rather than **fossil fuel** (which disappears into thin air and so has to be extracted anew by exploited labour, making it perfect for the needs of capital) or **metals** (which are finite), **we could use non-labour-intensive renewables — sunlight, wind and especially** (for physical products) **fibrous plants** (especially hemp, which can replace steel, concrete, graphene, lithium and fossil fuel) **and mycelium** (from which we can even make computers). And because socialism can plan and co-ordinate production as a whole on a break-even basis, instead of having to bow to the demands of capital accumulation and anarchic competition between private producers, we can grow economic output at the rate nature replenishes (or slower) — something that socialism could help instead of hinder. Achieving the abundant material wealth for all promised by communism (as it develops into its higher stage, when production becomes fully automated and, eventually, free) is part of the solution. Fibrous plants like **hemp** quickly draw down and sequester CO2 while reviving the soil, **reversing desertification**; and the products made from them (including bioplastic that is 10 times stronger than steel; batteries that outperform lithium and graphene; and highly-insulating carbon-negative hempcrete) keep that carbon sequestered indefinitely. Abundant material wealth for all includes abundant vegetation, permaculture, afforestation, etc. There is also the potential for **micro-organisms** to supply a **near-infinite source of energy**. In 2018, scientists in the US confirmed a theory first proposed by Soviet geologists when they found huge populations of bacteria living in the extreme temperatures of Earth's crust, despite the lack of photosynthesis and nutrients, living solely from chemical reactions fuelled by geothermal energy. They estimated that up to 23 billion tonnes of micro-organisms live in this "deep biosphere", making it the largest ecosystem on the planet and accounting for nearly 400 times the amount of carbon found in all living humans. Here lies a potential source of abundant energy (although we will have to assess whether the benefits outweigh the impacts of drilling). Other scientists have even found that the *Geobacter* bacteria found in human waste can convert sewage into fresh water and produce electricity in the process. It is now thought that one day microbial fuel cells could power our phones, household appliances — and even spaceships. **Investment in microbial fuel cells will remain seriously limited**, however, **until value-creation is based solely on utility instead of exploitation** and profit, since capital cannot exploit the labour time of microbes! Modern science — which is looking more and more 'presocialist', i.e. systematic, holistic and dialectical-materialist (the Marxist method of assessing history as moving forward through material and social interactions)— has proven that humans depend on plants and bacteria for everyday life, smashing the myth of The Individual — the world is powered by collectivism. Indeed, trees, plants and bacteria are our relatives. The world is one interconnected whole. The **socialisation of the means of production, whereby the means of production are owned by humanity instead of capital, will thus be a 'naturalising' humanisation, plantification and microbialisation of production**. Other forms of existing **carbon-negative production** that could be scaled up include 'sky mining' for diamonds that are chemically identical to earth diamonds, another industry that only exists on a small scale under capitalism because of the lack of labour exploitation involved. Emissions-free, energy-dense nuclear power, is also an option. The initial impact of mining uranium on the environment must be re-assessed by an independent socialist state, but to prove our earlier point, nuclear has not been abandoned because of safety fears, but because its capital-intensity has become unprofitable as ever-growing total capital becomes harder and harder to expand by the relatively diminishing pool of human labour. In terms of worker safety, nuclear is the safest form of energy production. There is also the prospect of space-based solar power and associated wireless transmission, without the intermittency of night time or winter suffered by solar panels and wind turbines on Earth. This, too, however, **has proven too expensive for investors who won't invest without the prospect of a higher return**. Reverting to overly local, small-scale production—which would make everything more expensive — is not an option. Sea levels are rising and we probably need to build incredibly vast dikes on every continent. Rising temperatures will also massively increase the demand for air conditioning, which will have to be powered by something abundant and emissions-free, like nuclear. But socialism never works? Clearly, we need world socialism. Countries that are arguably 'semi-socialist' or that are supposedly 'working towards' socialism, like China and Venezuela, still work to some extent on the basis of commodity-production. But even 'fully' socialist countries still have to trade with capitalist countries, and that means having to make concessions to capital, working within a world capitalist system and having to maintain military defences at the expense of the civilian economy. Nor can they fully plan their economies due to fluctuating, unpredictable foreign prices. The need to build up foreign currency also incentivises black markets. Again, because socialist production is based on utility, socialism will also be able to invest in things like mineralising CO2 (turning it permanently into basalt rock). This is not a silver bullet since it is water-intensive, but it could certainly be scaled up significantly where water scarcity is not an issue (or if water can be 'artificially' produced). That we are not doing this is a travesty — but where it would be a productive industry under socialism, it is an unproductive industry under capitalism, since it does not offer a commodity that can be sold for profit (unless it is sold to the state using public debt, thereby creating no new value and contributing to money devaluation that will eventually (imminently) cause hyperinflation). It would therefore have to be funded by **taxes** that **eat into already thinning profit margins, and so these taxes are resisted by capitalists, who anyway run the capitalist state**. They are incapable of changing the system, even as it threatens to produce an ecocidal holocaust. **Capitalism is now effectively an extinction cult** and can only continue to steer Earth into the sun. **Socialism — which is anyway becoming an economic necessity** for the first time — **gives humanity the chance of steering Earth to safety, in the nick of time**.

## Overaccumulation ensures collapse, fascist rise, & nuke war.

**Robinson 21** [William I.; 5-6-21; prof. sociology and global studies @ UCSB: "What are the real reasons behind the New Cold War?"

ROAR Magazine, [https://roarmag.org/essays/new-cold-war-crisis-capitalism/?fbclid=IwAR2RzXn0SMIPSilfxcXNtTcDIybQa6GxH\\_eodUmyEww2i59lh5qHpZpcwhk%5d//AD](https://roarmag.org/essays/new-cold-war-crisis-capitalism/?fbclid=IwAR2RzXn0SMIPSilfxcXNtTcDIybQa6GxH_eodUmyEww2i59lh5qHpZpcwhk%5d//AD) recut brett

The US is launching a **New Cold War against Russia and China** in an attempt **to deflect** our attention **from the escalating crisis** of global capitalism. The announcement on April 15 by President Biden that this administration was expelling 10 Kremlin diplomats and imposing new sanctions for alleged Russian interference in the 2020

US elections — to which Russia replied with a tit for tat — came just days after the Pentagon conducted military drills in the South China Sea. These actions were but the latest escalation of **aggressive posturing** as Washington ramps up its "New Cold War **against Russia and China, pushing the world dangerously towards international political and military**

**conflagration.** Most observers attribute this US-instigated war to rivalry and competition over hegemony and international economic control. These factors are important, but there is a bigger picture that has been largely overlooked of what is **driving this process: the crisis of global capitalism.** This crisis is economic, or structural. One of **chronic stagnation** in the global economy. But it is also political: a crisis of state legitimacy and **capitalist hegemony.** The system is moving towards what we call "a general crisis of capitalist rule" as billions

of people around the world face uncertain struggles for survival and question a system they no longer see as legitimate. **In the United States, the ruling groups must channel fear over tenuous survival away from the system and towards** scapegoated communities, such as immigrants or Asians blamed for the pandemic, and towards **external enemies** such as China and Russia. At the same time, **rising international tensions** legitimate expanding military and security budgets and **open up new opportunities for profit making through war** political conflict and repression in the face of stagnation in the civilian economy. All around the world a "people's spring" has taken off. From Chile to Lebanon, Iraq to India, France to the United States, Haiti to Nigeria and South Africa to Colombia,

waves of strikes and mass protests have proliferated and, in many instances, appear to be acquiring a radical anti-capitalist character. The ruling groups cannot but be frightened by the rumbling from below. If left unchallenged, **the New Cold War will become a cornerstone in the arsenal of US rulers and transnational elites to maintain a grip on power as the crisis deepens.** THE CRISIS OF GLOBAL CAPITALISM Economically, **global capitalism faces** what is known in technical language as **"overaccumulation"** a situation in which the economy has produced — or has the capacity to produce — great quantities of wealth but the market cannot absorb this wealth because of escalating inequality. Capitalism by its very nature will produce abundant wealth yet polarize that wealth and generate ever greater levels of social inequality unless offset by redistributive policies. The level of global social polarization and inequality now experienced is **without precedent.** In 2018, the richest one percent of humanity controlled more than half of the world's wealth while the bottom 80 percent

had to make do with just five percent. Such inequalities end up undermining the stability of the system as the gap grows between what is — or could be — produced and what the market can absorb. The **extreme concentration of the planet's wealth** in the hands of the few and the **accelerated impoverishment and dispossession** of the majority **means that the transnational capitalist class, or TCC, has increasing difficulty in finding productive outlets to unload enormous amounts of surplus it accumulated.**

The more global inequalities expand, the more constricted the world market becomes and the more the system faces a structural crisis of overaccumulation. **If left unchecked, expanding social polarization results in crisis** — in **stagnation, recessions, depressions, social upheavals and war** — just what we are experiencing right now. Contrary to mainstream accounts, the coronavirus pandemic did not cause the crisis of global capitalism, for this was already upon us. On the eve of the pandemic, growth in the EU countries had already shrunk to zero, much of Latin America and sub-Saharan Africa was in recession, growth rates in Asia were steadily declining, and North

America faced a slowdown. **The writing was on the wall. The contagion was** but **the spark that ignited the combustible of a global economy that never fully recovered from the 2008 financial collapse** and had been **teetering on the brink of renewed crisis ever since.** Even if there is a momentary recovery as the world slowly emerges from the pandemic, **global capitalism will remain mired in this structural crisis of overaccumulation.** In the years leading up to the pandemic there was a steady rise in underutilized capacity and a slowdown in industrial production around the world. The surplus of accumulated capital with nowhere to go expanded rapidly. Transnational corporations recorded record profits during the 2010s at the same time that corporate investment declined. The total cash held in reserves of the world's 2,000 biggest non-financial corporations increased from \$6.6 trillion in 2010 to \$14.2 trillion in 2020 — considerably more than the foreign exchange reserves of the world's central governments — as the global economy stagnated. **Wild financial speculation**

and mounting government corporate, and consumer **debt** drove growth in the first two decades of the 21st century, but these **are temporary and unsustainable solutions to long-term stagnation.** THE GLOBAL WAR ECONOMY As I showed in my 2020 book, The Global Police State, the global economy has become ever more dependent on the development and deployment of systems of warfare, social control and repression simply as a means of making profit and continuing to accumulate capital in the face of chronic stagnation and saturation of global markets. This is known as "militarized accumulation" and refers to a

situation in which a global war economy relies on perpetual state organized war making, social control and repression — driven now by new digital technologies — in order to sustain the process of capital accumulation. The events of **September 11, 2001** marked the start of an era of a **permanent global war** in which logistics, warfare, intelligence, repression, surveillance and even military personnel are more and more the privatized domain of **transnational capital.** The Pentagon budget increased 91 percent in real terms between 1998 and 2011, while worldwide, total state military budgets outlays grew by 50 percent from 2006 to 2015, from \$1.4 trillion to more than \$2 trillion, although

this figure did not take into account the hundreds of billions of dollars spent on intelligence, contingency operations, policing, bogus wars against immigrants, terrorism and drugs, and "homeland security." During this time, military-industrial complex profits quadrupled. But focusing just on state military budgets only gives us a part of the picture of the global war economy. The various wars, conflicts and campaigns of social control and repression around the world involve the fusion of private accumulation with state militarization. In this relationship, the state facilitates the expansion of opportunities for private capital to accumulate through militarization, such as by facilitating global weapons sales by military-industrial security firms, the amounts of which have reached unprecedented levels. Global weapons sales by the top 100 weapons manufacturers and military service companies increased by 38 percent between 2002 and 2016. By 2018, private-for-profit military companies employed some 15 million people around the world, while another 20 million people worked in private security worldwide. The private security (policing) business is one of the fastest growing economic sectors in many countries and has come to dwarf public security around the world. The amount spent on private security in 2003, the year of the invasion of Iraq, was 73 percent higher than that spent in the public sphere, and three times as many persons were employed in private forces as in official law enforcement agencies. In half of the world's countries, private security agents outnumber police officers. These corporate soldiers and police were deployed to guard corporate property, provide personal security for TCC executives and their families, collect data, conduct police, paramilitary, counterinsurgency and surveillance operations, carry out mass crowd control and repression of protesters, run private detention and interrogation facilities, manage prisons and participate in outright warfare. In 2018, President Trump announced with much fanfare the creation of a sixth military service, the "space force." The corporate media duly towed the official line that this force was needed to face expanding threats to the United States. What went less reported is that a small group of former government officials with deep ties to the aerospace industry had pushed behind the scenes for its creation as a way to hype military spending on satellites and other space systems. In February of this year, the Federation of American Scientists reported that military-industrial complex lobbying is responsible for the decision by the US government to invest at least \$100 billion to beef up its nuclear stockpile. The Biden administration announced in early April to much acclaim that it would pull all US troops out of Afghanistan. While US service troops in that country number 2,500, these pale in comparison with the more than 18,000 contractors that US government has hired to do its bidding in the country, including at least 5,000 corporate soldiers that will remain. The so-called wars on drugs and terrorism, the undeclared wars on immigrants, refugees and gangs — and poor, dark-skinned and working-class youth more generally — the construction of border walls, immigrant detention centers, prison-industrial complexes, systems of mass surveillance and the spread of private security guard and mercenary companies, have all become major sources of profit-making and they will become **more important** to the system as stagnation becomes the new normal. In sum, the global police state is big business at a time when other opportunities for transnational corporate profit-making are limited. But if corporate profit, and not an external threat, is the reason for expanding the US state and corporate war machine and the global police state, **this must still be justified to the public. The official state propaganda narrative about the "New Cold War" serves this purpose.**

CONJURING UP EXTERNAL ENEMIES There is another dynamic at work in explaining the New Cold War: the crisis of state legitimacy and capitalist hegemony. **International tensions derive from the acute political contradiction in global capitalism** in which economic globalization takes places within a nation-state-based system of political authority. To put this in technical terms, there is a contradiction between the accumulation function and the legitimacy function of states. That is, states face a contradiction between

the need to promote transnational capital accumulation in their individual national territories and their need to achieve political legitimacy and stabilize the domestic social order. **Attracting transnational corporate and financial investments to the national territory requires providing capital with all the incentives associated**



with **neoliberalism**, such as **downward pressure on wages**, **union busting**, **deregulation**, low or no taxes, **privatization**, investment subsidies, **fiscal austerity** and on so. The result is **rising inequality**, **impoverishment and insecurity** for working and popular classes; precisely the conditions that throw states into **crises of legitimacy**, **destabilize national political systems** and jeopardize elite control. **International frictions escalate as states, in their efforts to retain legitimacy, seek to sublimate social and political tensions and to keep the social order from fracturing.**

In the US, this sublimation has involved channeling social unrest towards scapegoated communities such as immigrants — this is one key function of racism and was a core component of the Trump government's political strategy — or towards an external enemy such as China or Russia, which is clearly becoming a cornerstone of the Biden government's strategy. While the Chinese and Russian ruling classes must also face the economic and political fallout of global crisis, their national economies are less dependent on militarized accumulation and their mechanisms of legitimization rest elsewhere — not on conflict with the US. It is Washington that is conjuring up the New Cold War, based not on any political or military threat from China and Russia, much

less from economic competition, as US- and Chinese-based transnational corporations are deeply cross-invested, but on the imperative of managing and sublimating the crisis. **The drive by the capitalist state to externalize the political fallout of the crisis increases the danger that international tensions will lead to war.** Historically wars have pulled the capitalist system out of crisis while they serve to deflect attention from political tensions and problems of legitimacy.

The so-called "peace dividend" that was to result in demilitarization when the original Cold War ended with the 1991 collapse of the Soviet Union evaporated almost overnight with the events of September 2001, which legitimated the sham "War on Terror" as a new pretext for militarization and reactionary nationalism. US presidents historically reach their highest approval ratings when they launch wars. George W. Bush reached an all-time-high of 90 percent in 2001 as his administration geared up to invade Afghanistan, and his father George H. W. Bush achieved an 89 percent approval rating in 1991, right as the US declared the end of its (first) invasion of Iraq and the "liberation of Kuwait." THE BATTLE FOR THE POST-PANDEMIC WORLD We are currently witnessing a radical restructuring and transformation of global capitalism based on a much more advanced digitalization of the entire global economy and society. This process is driven by so-called fourth

industrial revolution technologies, including artificial intelligence and machine learning, Big Data, autonomously driven land, air and sea vehicles, quantum and cloud computing, 5G bandwidth, bio- and nanotechnology and the Internet of Things, or IoT. **The crisis is not only economic and political, but also existential because of the threats of ecological collapse and nuclear war,** to which we must add the danger of **future pandemics** that may involve much deadlier microbes than coronaviruses.

The pandemic lockdowns served as dry runs for how digitalization may allow the dominant groups to step up restructuring time and space and to exercise greater control over the global working class. The system is now pushing towards expansion through militarization, wars and conflicts, through a new round of violent dispossession and through further plunder of the state. The ruling classes are also using the health emergency to legitimate tighter control over restive populations. The changing social and economic conditions brought about by the pandemic and its aftermath are accelerating the process. These conditions have helped a new bloc of transnational capital, led by the giant tech companies, interwoven as they are with finance, pharmaceuticals and the military-industrial complex, to amass ever greater power and to consolidate its control over the commanding heights of the global economy. As restructuring proceeds, it heightens the concentration of capital worldwide, worsens social inequality and also aggravates international tensions and the dangers of military conflagration. In 2018, just seventeen global financial conglomerates collectively managed \$41.1 trillion dollars — more than half the GDP of the entire planet. That same year, to reiterate, the richest one percent of humanity led by 36 million

millionaires and 2,400 billionaires controlled more than half of the world's wealth while the bottom 80 percent — nearly six billion people — had to make do with just five percent of this wealth. **The result is devastation for the poor majority of humanity.**

Worldwide, 50 percent of all people live on less than \$2.50 a day and a full **80 percent live on less than \$10 per day.** One in three people

on the planet suffer from some form of malnutrition, nearly a billion go to bed hungry each night and another two billion suffer from food insecurity. **Refugees from war, climate change, political repression and economic collapse already number into the hundreds of millions. The New Cold War will further immiserate this mass of humanity. Capitalist crises are times of intense struggles** There has been, **rapid political polarization in global society since 2008** between an insurgent **far-right** and an **insurgent left** The **ongoing crisis** has **incited popular revolts**

Workers, farmers and poor people have engaged in a wave of strikes and protests around the world. **From Sudan to Chile, France to Thailand, South Africa to the United States, a "people's spring" is breaking out everywhere** **But the crisis also animates far-right and neofascist forces** that have surged in many countries around the world and **that sought to capitalize politically on the health calamity** and its aftermath. Neofascist movements and authoritarian and dictatorial regimes have proliferated around the world as **democracy breaks down.**

Such savage inequalities are explosive. They fuel mass protest by the oppressed and lead the ruling groups to deploy an ever more omnipresent global police state to contain the rebellion of the global working and popular classes. **Global capitalism is emerging from the pandemic in a dangerous new phase. The contradictions of this crisis-ridden system have reached the breaking point, placing the world into a perilous situation that borders on global civil war.**

The stakes could not be higher. The battle for the post-pandemic world is now being waged. Part of that battle is to expose the New Cold War as a ruse by the dominant groups to deflect our attention from the escalating crisis of global capitalism. The US is launching a New Cold War against Russia and China in an attempt to deflect our attention from the escalating crisis of global capitalism.

## **Vote neg to align with the People's War—this looks like the creation of a Communist Party that builds dual power to smash the state!**

**Shea '20** [Rainer; 9-18-20; anti-imperial journalist, Marxist-Leninist, movement organizer; "The U.S. military would not be invincible against domestic revolt"; <https://web.archive.org/web/20211208210524/https://rainershea.com/ff/the-us-military-would-not-be-invincible-against-domestic-revolt>] pat – [edited] recut brett

As you look at these facts, you slowly come to realize the stark reality of your situation as someone who's committed themselves to liberating the world from U.S. capitalism, imperialism, and colonialism. This reality is that **you can only rely on the revolutionary organizations within the U.S. to help bring you to victory against the forces of bourgeois reaction.** In all likelihood, an army from across the ocean isn't coming to save you. The throngs of heavily indoctrinated fascists in the U.S. military aren't going to overwhelmingly join your side. **Victory is only going to come from how good you are at sticking with the**

revolutionary tasks that the material conditions will demand from you. These tasks are apparent from looking at how **the Taliban**, despite lacking tanks or warplanes and despite having always been outnumbered and technologically outmatched by the U.S., **has managed to prevent the U.S. from defeating it after nineteen years of war.** The Taliban has done this by **winning the loyalty of much of the local populations** in the parts of Afghanistan that they control, **using the massive violence and corruption that U.S. imperialism has brought to the country to get many people to see aligning with their organization as the best option.** The Taliban has had advantages that rebel forces in the U.S. won't necessarily have the equivalent of, like highly mountainous terrain and support from Pakistan. But even if we don't manage to get military support from Cuba or the DPRK, and even if the U.S. surveillance apparatus forces us to operate with great secrecy, **we'll be able to gain a comparable advantage if we do the work to build popular support for a revolutionary guerrilla effort.** This step is where agitation and organizing come in. **If we spend the coming years using the country's crises to get many more people to join communist parties, and if we do this while educating the masses** about the capitalist and imperialist contradictions behind the crises they're experiencing, **we'll gain a large base of support.** Not one that includes the enormous population of reactionaries in the U.S., but one that's capable of **providing a guerrilla struggle** with popular backing.

With this vision in mind, Hakim has articulated the actions which must accompany these efforts: ***Arm yourselves. Establish armed wings of revolutionary organizations. Start coordinating armed actions across the country with as many organizations as you can. Remember, never terrorist activity – only military and state targets. Establish Red bases around the country, and begin building dual power. People's war is the solution.*** If you truly want radical change, and if you really want to turn the U.S. from an overwhelming agent of bad in the world into an agent of good, you will need to turn upheaval – with sufficient development – into a civil war. When this war starts, we'll need to apply the guerrilla tactics that can make us win. These are the tactics that focus around attrition, the action of gradually weakening the forces of the enemy. Attacking military and state targets, as Hakim said, is how we can accomplish this. If we sustain these attacks, the forces of the U.S. will over time be forced to retreat. And despite what the "a rebellion can never defeat the U.S. military" perception seems to imply about how such a conflict would play out, **the U.S. won't initially use its heaviest military tools for attacking the rebels. The U.S. will start to cripple [destroy] itself if it begins bombing cities and infrastructure, and the more military resources it has to sacrifice at home, the less ability it will have to project power abroad.** This certainly won't be good for them in a future scenario where the current resource, climatic, economic, and social crises have all been massively exacerbated, and where U.S. imperial decline will have gone on for much longer than it has so far. Our enemies may have the might of empire on their side, but **we'll have the advantage of fighting against a power structure that's destabilizing itself amid the collapse of global capitalism.** The foundations of capitalism are falling out. Through guerrilla warfare, we can tear the whole structure down. **What this will require from you is the psychological commitment needed to carry forth this operation.** The guerrilla warrior has to endure great bodily sacrifices. In addition to the risks of being killed or injured in battle, the life of a guerrilla can consist of severe hunger, thirst, lack of domestic sanitation, demands for great physical exertion, and the other costs of hiding and traveling outdoors. The accounts of the great guerrilla Che Guevara make these costs apparent. **But when you realize the value of revolutionary sacrifice, these things will no longer deter you. The alternative to joining the struggle is to remain complacent, to keep standing by while the U.S. empire collapses into fascism and while your material conditions keep deteriorating.** Without making the necessary sacrifices, we won't be able to defeat the ruling class.



## CAP K 2NR

The Aff's capitalist methods also prevent any possibility for change. The Supreme Court serves the rich and the ruling class. The plan saves Judicial legitimacy from itself, protecting the rule of the bourgeois and halting social energy from below, coopting any possibility of revolution.

Capitalism causes extinction from warming: profit is all they care about. GDP surpasses sustainability. Sure there's renewables but they require even more millions of tons of extracting resources. [Reese 20] warming causes extinction cuz we'd die from overheating, flooding, air pollution, etc

Cap's greed motivates expansion and contradictions, from which wars are started and fascist leaders rise. War is also profitable: guns and military vehicle companies mobilize whole countries for war and profit. Concentration of wealth and financial speculation creates crashes in the blink of an eye: 2008, 1930s; investors screw out economy up. The result is the rise of fascism from recession and takeover towards war - see Germany WW2. War goes nuclear and extinction from tensions. Overaccumulation was reflected at the peak of the Cold War and capitalism's clashes.

The alternative is dual power organization, which cannot happen unless we stop feeding capitalism with symbolic reforms. The socialist party will provide the bread and water for citizens so they have what they need to revolt and take small local victories at a time, slowly emerging from the shadows into a fully-fledged revolution – that's what Occupy Wallstreet and the Black Panthers represented. Grassroots organizations, counter-institutions, and tenant unions will eventually go head-to-head with the capitalist state in ever-larger confrontations and institute change to direct democracy.

Cap is only sustainable if the Aff keeps feeding it with reform, hence no perm and we must negate.