THE BINGHAMTON LAW QUARTERLY

Vol. 7, Issue 1

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Dear Readers,

Thank you for taking the time to read our publication! This semester, our organization has experienced some drastic changes amidst the COVID-19 pandemic. No longer being able to meet as a team of writers and editors has forced us to operate entirely online. Despite these setbacks, our E-Board, writers, and editors have shown fortitude and a remarkable work ethic. We have received a record number of article submissions and since the founding of the Quarterly, we are now working with our largest editing team to date. This past fall semester was the first in which we functioned as an official Student Association (SA) chartered organization. I would like to thank the Binghamton SA for their continued support. The Quarterly continues to grow, each issue becoming further evidence that our writers and editors are committed to the pursuit of academic excellence and legal scholarship.

The articles published in this issue follow a theme based on the Supreme Court, judiciary functioning, and judicial politics. The Quarterly takes pride in its approach to studying the most current and pressing issues of the law. Given the recent confirmation of justice Amy Coney Barrett to the Supreme Court, our writers felt compelled to explore the judicial realm to understand the issue in its entirety. The articles in this issue not only touch on the recent nomination, but also on the loss of Ruth Bader Ginsburg, a Supreme Court justice championed for her commitment to civil rights and women's equality. The articles you will read here also take up the difficult task of explaining the complicated mechanisms of the judiciary, as well explaining its long history.

To all readers, whether you are a student interested in law school or interested in the selected topics presented, I welcome you to the content inside and hope that you will garner a more complete understanding of how the law functions and what we can learn from it. The law is a reflection of what we find important, our morals, and our values. Pay attention to how it changes and how it operates, and you will garner an invaluable insight into how our society functions. On behalf of myself and our E-Board, I would like to thank our writers and editors for their hard work - without them this issue would not be possible. We are always searching for new writers, editors, and designers to join our team. If you are interested, please contact us via email at Quarterly@binghamtonsa.org and indicate what role you would like to be involved in. We are extremely proud of how far our organization has come. To see it continue to grow and flourish brings me immense joy. We hope that you will continue to join us on our journey.

Sincerely,
Stephen Perez

WOMEN AND THE JUDICIARY

By Danielle Jaffe, contributor and editor

The Relationship between the Supreme Court and Women can at best be described as complicated. Supreme court cases that are deemed a "win" for the women's movement towards the fight for equality, when investigated deeper, show themes of underlying anti-feministic and misogynistic notions. When researched, "win" cases like Griswold v. Connecticut and Reed v. Reed shows these underlying issues. These hidden beliefs shown from cases like these complicate the relationship between the women's fight for equality and the supreme court.

Griswold v. Connecticut

Under the Connecticut Comstock Act of 1873, it was illegal to use any drug or instrument to prevent conception. In 1965, the supreme court dismantled the Connecticut Comstock Act as they found that the constitution protects "marital privacy". The court reasoned that the marital privacy was implied by the specific provisions within the first, third, fourth, and fifth amendments within the bill of rights.[1]

This case was considered a "win" for contraceptive rights for women, however the clause of "marital privacy" exposed the court's internal anti-feministic nature. Why couldn't the court defend the disbandment of this legislation because of the right to private contraceptive use just for women instead of "marital privacy?"

Since gay marriage wasn't legal in Connecticut until 2008, the marital privacy the court mentions must have been between a women and a man, insisting that tying a man to the decision of using contraceptives makes it legal and legitimate, however women on their own are not equip to have that right. Language and reasoning like this by the supreme court, is simply irresponsible, although it may appear harmless. On the surface level it may seem the court ruled in "favor" of women's reproductive rights, but it has really led to an increase of internalized misogyny and has weakened the women's movement for independence and equality.

Reed v. Reed

Five years after the Griswold v. Connecti-

cut case, the case Reed v. Reed was seen by the supreme court. Divorced couple, Sally and Cecil Reed were arguing over who should their deceased son's estate be administered by. After each filing a petition with the Probate Court of Ada County, Idaho, Cecil was appointed administrator of the estate due to the Idaho Code specifying that males are preferred to their counterparts in regards to appointing rulers of estates. When the Supreme court saw this case, it was unanimously decided that the Idaho code was unconstitutional.[2]

Purely from face value - this court case was a "win" for the women's movement. However when digging a little deeper, similar underlying themes of misogyny were found just like in the case Griswold v. Connecticut.

Sally Reed briefly argued that gender discirmination should be given a "suspect classification" that deserves "strict scrutiny" .

When a group of people are labeled as a "suspect classification" in United States Constitutional law it means they are a "class or group of persons meeting a series of criteria suggesting they are likely the subject of discrimination."[3] When a court hears a case regarding unconstitutional discirmination these classifications are re-examined. Factors that a group may be subject to "suspect classification", includes inherent traits, historically disadvantaged, and historically lacked effective representation in the political process.

When a suspect class is targeted by law a court reviews it with a certain level of scrutiny. When dealing with cases regarding race, national origin, and religion, those cases are given top tier strict scrutiny which means the government must show that the law in question is needed to have a "compelling state interest", however when dealing with gender, intermediate scrutiny is used which is a lower standard of review.[4]

To this day gender dscirmination allegations are not met with strict scrutiny, amplifying the anti-equality approach the court has had since its origin. Although Sally Reed "won" her case by dissembling Idaho Code, her underlying argument of assigning gender discrimination a suspect class that deserves strict scrutiny by the court just like racial and religious arguments are given was denied. The court had a chance to take a great leap forward in the fight for independence, but once again met it with a half-hearted approach, an approach that was clearly influenced by the deeply rooted misogyny, that the court system in America

has been plagued with since its creation.

The Court and the Women's Movement Today

With the most recent supreme court judge, Amy Coney Barret, appointed and approved for the bench, the complicated relationship between the court and the women's movement is amplified and on the minds of more Americans each day. Barret is a known conservative whose values line up to be historically antifeminist.

Although the supreme court hasn't always voted in favor of progress, it still has helped the women's movement in the hopes of the equality of opportunity and life. Many people fear that progress will be reversed, especially with women's reproductive rights with a reversal of the Court ruling Roe v. Wade that allows women to have the choice of an abortion without government restriction. The courts relationship with women needs to be more consistently feminist in their views and deicsions.

The court system has made it almost a precedent, to not fully address the views of the feminsit movement, reckless language and reasoning has led to half answers that are too timid to properly fix legislation. We have made progress, but in many cases, it seems as if we are taking two steps forward and one step back. While overcoming hundreds of years of misogyny, won't come overnight, the court system has to take the appropriate measures to properly address feminist views every opportunity it gets and they had the opportunity to do this in the two cases that we examined today, but they still fell short of the mark.

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THE CONTENTIOUS DEBATE AROUND COURT PACKING

By Sarah Crawford, contributor and editor

In its simplest form, packing the Court is adding justices to the Supreme Court. On a deeper level, court packing is a tactic employed by lawmakers who hope to gain a majority for their party on the Supreme Court; to do so, some lawmakers want to add justices aligned with their party's ideology.[1]

Nine justices currently sit on the Supreme Court. Packing the Court would increase this number and change the Court's ideological makeup. Although the number of justices on the Supreme Court has remained the same since 1869, the Constitution does not specify how many justices must sit on the bench.[2] As such, lawmakers have the authority to add justices to the Court with legislation that passes through both houses of Congress and is signed by the president.[2]

Although the number of justices on the Supreme Court has not changed in over 150 years, since the death of Justice Ruth Bader Ginsberg on September 18, 2020, many politicians from both sides of the aisle have discussed packing the Court. Some outspoken lawmakers support exploring the idea, while others strongly oppose it. Numerous Democrats want to add justices after President Trump successfully appointed three Conservative justices to the Supreme Court in just four years.[3] Most recently, the Senate confirmed Judge Amy Coney Barrett to replace Justice Ginsburg eight days before the 2020 presidential election.[4] Many Democrats argued against nominating a judge so close to a major election, making this move extremely controversial and revitalizatizing the conversation around court packing.

Republicans have made a similar argument in the past. After the death of Justice Antonin Scalia nine months before the 2016 presidential election, Republicans similarly argued against nominating a justice before that election. In fact, the Republican Senate refused to hold hearings on President Obama's nominee, Merrick Garland. Instead, they left a vacancy on the bench for 11 months, allowing newly-elected President Donald Trump to nominate Justice Neil Gorsuch.

Now, following Justice Ginsberg's death, the Republican-led Senate changed their position, agreeing to hold hearings before the 2020 election.[5] Democrats argue that Republicans used their majority power to sway the Supreme Court's ideology in both these instances. Nevertheless, because Democrats won the Presidency and have a chance to win the Senate, many want to offset Barrett and Gorsuch's ideologies by adding seats to the Supreme Court.[6] Over the next four years, these new seats could be filled with left-leaning justices, changing the ideological makeup of the Court.

Due to the political power exercised when adding seats to the Supreme Court, some politicians and lawmakers expect packing the Court to politicize the only depoliticized branch of government. These critics argue that by establishing a precedent in which parties use their majority power to add justices, the Supreme Court becomes a political pawn.[5] Other opponents of court packing reason that this practice would delegitimize the Supreme Court. Unless a new Constitutional amendment permanently sets the number of justices sitting on the Supreme Court, parties can continue to add justices when they win the Presidency and the majority in Congress. This continual increase in the number of justices on the bench diminishes each seat's importance, further portraying the Supreme Court as a politically divisive entity.[5]

On the other hand, proponents of court packing argue it will depoliticize an already political bench. Supporters reference the Conservative majority held on the Supreme Court since 1970 as evidence that the body needs change for equality between the parties.[5] Supporters also state that Republicans used their majority position to gain more power by filling the Supreme Court vacancies in 2016 and 2020 despite the presidential elections during these years. Now that Democrats won the Presidency and may win the majority in Congress, some lawmakers, such as Senate minority leader Chuck Schumer, believe they have the right to use their control to decrease the Republican power on the Supreme Court.[5]

It is still unclear whether Democrats will formally attempt to pack the Supreme Court; however, the discussion will likely continue as Democrats attempt to change the ideological makeup of the Court and Republicans work to maintain their majority.

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THE IMPACT OF JUDICIAL DECISIONS ON PRESIDENTIAL LEGACY

By Sarah Cole, contributor and editor

The political legacy of presidential terms can be reviewed through a multitude of lenses; perhaps one of the most long lasting provisions of this legacy is directly tied to the Supreme Court. Incumbent President Donald Trump has the lowest record of judicial success since before Franklin Roosevelt's term, with an abysmal 47% success rate, especially when compared to his ideological predecessor Ronald Reagan who boasted the highest recorded rate of 75%.[1] It could be an easy leap to blame this on the president's self admitted lack of respect for the judicial process and controversial nominees, but the downward trend since Reagan exposes issues that run deeper than a single presidential term.

On average, justices' decisions diverge and fall out of line with the President who appointed them during their presidential term(s).[3] Between Roosevelt and Reagan, only Dwight Eisenhower served two full terms. However, since Reagan, three presidents have served two full terms. If justices deviate from the Presidents who appointed them over time, it follows that Presidents who spend more time in office risk worsening their records with the court. Another change that can account for shifting dynamics between the executive and judicial branches is the legal norm of judicial deference[1], which is the principle that courts will defer to executive decisions and interpretations, with the purpose of maintaining mutual respect and efficiency. The use of deference is higher when there is a more prominent threat of institutional retaliation from the executive, and thanks to the security of the Supreme Court, judges are free to decide against deference.[4] This tradition has been in decline since H.W. Bush's administration, explaining why the court is less willing to side with executive preferences.[1]

Regardless, this should not discount the individual relationship between Trump and the Supreme Court, especially considering that ⅓ of the judges were appointed by Trump himself. Both of his appointees: Neil Gorsuch and Brett Kavanaugh, ruled against him in Trump v. Vance,

which pertained to Trump's financial records and tax returns. A few weeks prior, Gorsuch voted to protect LGBTQ employment discrimination in Bostock v. Clayton County, Ga., Altitude Express v. Zarda, and R.G. & G.R. Harris Funeral Homes v. Equal Employment Opportunity Commission, straying from the conservative faction of the Court.[2] While Trump's nominees may be ideologically comparable to his administration, this is not the purpose of the Supreme Court. While the President may express disappointment with the Court due to their ideological preferences, the reality is that professional integrity is an essential aspect of a judge's role. The need to uphold the Constitution and draw from precedental court decisions has frequently prevented his appointees and other conservative judges from siding with the President.

Although his appointees may not side with Trump as often as he would like, his opportunity to nominate three justices, all relatively middle aged, ensures a conservative influence within the court for decades to come. This gives Trump a political legacy that may help future republican presidents achieve positive records, particularly if they are able to present competent arguments and make informed legal decisions.

Especially considering the conservative majority on the court, the downward movement has a high chance of continuing through the Biden presidency as well. As the trend continues, Presidents and their parties may grow increasingly frustrated with their inability to achieve judicial success during their terms, and just as Franklin Roosevelt did years ago, look for alternative possibilities in the judicial process that could potentially increase compatibility between their administration and the judges of the Supreme Court.

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JOHN ROBERTS' GRADUAL CONVERSION TO SWING VOTER? DO NOT BELIEVE THE HYPE!

By Joshua Levey, contributor

The Supreme Court under the Trump Administration has witnessed many shake-ups that have not been seen in a while. Three new justices were appointed to the court, all to a varying degree of reception by both the government and the public at large. Two justices died and one retired, so a replacement was needed each time. However, with these departures, both fatal and otherwise, justices that were already placed on the court evolved. The prime example in this is Chief Justice John Roberts, a conservative justice who was appointed to become Chief Justice by President Bush in 2005. Roberts was always believed to have held relatively conservative beliefs, and would have sided with justices like Kennedy, Thomas, Alito, and Scalia back in the late 2000's and early 2010's. However, as time progressed, particularly when Donald Trump was elected president in 2016, it has been seen from time to time that Roberts would side with the liberal justices.

According to some articles that were published in 2020 to catch a few views on mass media outlets like CNN and Fox News, and in this case The Guardian, Roberts sided with justices like Sotomayor, Breyer, and Kagan in a major abortion case coming from Louisiana. These sources sensationalized the decision to imply that Roberts did this to oppose the President, or because the Chief Justice has taken a new liking to liberal judicial philosophy, much to the conservatives' chagrin.[1]

Yet, it is a mistake to believe that Roberts has developed a new take on judicial politics because of President Trump, and for a few reasons. One of the first reasons why the apparent hype should not be believed is that Roberts has had a history of making decisions that anger both the conservative and the liberal politicians and pundits. For example, in 2015, Roberts prevented a case from being heard by the Supreme Court that would have made the Affordable Care Act irrelevant. Liberal outlets called Roberts' stance on the matter brave, while conservative pundits called Roberts' decision poor and even a betrayal

to conservatism.[2] All the while, his decision to join the majority in *Shelby County v. Holder* in 2013 was decried as insensitive and racist, as he believed that the United States as a whole has beaten the racism that was seen at the ballot box during the heyday of the Jim Crow South.[3]

In a sense, this is what a justice is expected to do. A justice will make decisions that are bound to garner the wrath of certain individuals, and Roberts was no different under the Bush and Obama administrations. He was simply doing his job as a justice.

Another major reason as to why the apparent hype should not be believed is that when comparing Roberts' decisions in the abortion cases that came before the Supreme Court in 2016 and 2020, he was merely following the principle of *stare decisis*, precedent. In *Whole Woman's Health v. Hellerstedt* (2016), a 5-3 majority ruled that a Texas law that mandated that the physicians who perform abortions in the state must have admitting privileges at hospitals 30 miles near where the procedures were performed was unconstitutional by imposing an undue burden against a woman's constitutional right to an abortion.[4] Roberts was in the minority in this case along with Justices Thomas and Alito, believing that the plaintiffs did not properly show that if the law was imposed, so many abortion clinics would have been shut down as claimed.[5]

Then, in 2020's *June Medical Services v. Russo*, Roberts sided with the liberal majority in a 5-4 decision that invalidated a Louisiana law that imposed the same restrictions as was seen in the Texas law in *Whole Woman's Health v. Hellerstedt*. In his report, Roberts still believed that the decision rendered in *Hellerstedt* was incorrect, but he cited that the reason for his decision to side with the liberal majority was because of his belief that precedent is key in court.[6] Precedent mandates that decisions already made in similar cases must be applied in the present, and Roberts did as precedent demanded of him in the Louisiana abortion case.

With precedent also guiding Chief Justice Roberts' decisions, one final reason as to why the sensationalism seen in the newspapers may be misconstrued is that Roberts may have done this more to ensure that the Supreme Court, and the judicial branch as a whole, be seen still as a politically neutral branch of government.[7]

As Chief Justice, Roberts is not only in charge of the Supreme Court, but also the entire

judicial branch of the U.S. government. America in 2020 is as politically divided as it was in 2016, and the executive and legislative branches are still expected to be seen as the most politically divisive. The Supreme Court in recent years has been under scrutiny for being stacked with conservative justices, and many have feared that the court will turn into a rubber stamp for the executive branch if left untreated. Roberts probably realized this, and when Justice Kennedy retired in 2018, one of the last justices who was seen as the swing vote also disappeared.[8] So, to keep America under the idea that the Supreme Court is a politically neutral player, he will occasionally vote with Justices Kagan, Breyer, and Sotomayor. It is seen as his duty to be neutral, so he must do what he can to keep the proverbial peace in place.

Roberts may be painted as one of the great bastions against executive overreach, but in reality, he is doing what is expected of him as Chief Justice. Pundits on both sides of the aisle will complain, calling Roberts incompetent or malicious. Yet, as a servant of the law, he will take the brunt of criticism if it means that the Supreme Court's values and appearances are kept in check. While Roberts may be the new swing vote on the Supreme Court with Justice Kennedy's retirement, do not believe the hype. He is simply doing his duty.

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BRIEF OVERVIEW OF IMPLICIT BIAS IN JUDICIAL DECISION-MAKING

By Juliet Tomaro, contributor

Bias as a general implication within decision-making is evident in our automatic processing system as humans. To elaborate, each day we process a multitude of information which stems from our observation of the world around us in conjunction with our prior and current experiences. Our bias consists of three major, adjacent components: stereotypes, prejudice, and discrimination.[1] The stereotype, or generalizations we hold, have a foundational basis with regard to our surrounding environment. Our friends, family, and social media influences catalyze our conceived notions that we automatically associate with specific topics or groups.[2] Stereotypes that we maintain currently can possess positive or negative implications, however, such stereotypes translate to how we view and translate the world. In many cases, our explicit or conscious biases lead to unjust feelings of prejudice and acts of discrimination. Our "conscious preferences," or explicit biases, are personal viewpoints that can be recognized and shaped with new experiences and education—this is one sector of decision-making.[3] However, our decision-making is also inherently shaped by biases that function outside of our cognitive awareness.

Implicit bias is a term used to describe unconscious attitudes or stereotypes that we associate with specific groups of individuals, more commonly disadvantaged groups.[4] Implicit attitudes are just as pervasive, if not more than explicit attitudes. Furthermore, our implicit associations have a powerful influence on our behavior and decision-making. Therefore, it can be concluded that the concept of objectivity is not completely black and white when evaluating decision-making. The impact of implicit attitudes is currently a prevalent topic within the judicial field, as some say such a concept may be responsible for sociocultural disparities within society and throughout history. As a result, it is imperative to investigate the influence implicit bias holds with regard to judicial decision-making.

Judges have taken an oath to the judicial system to conduct concrete decision-making

with a foundation in egalitarian principles.[5] However, judges are human—therefore, objective rulings that are free from bias has been found not to be entirely possible, especially across a multi-disciplinary perspective. Founded by Tony Greenwald, Mahzarin Banaji, and Brian Nosek, The IAT, or Implicit Association Test, is a measurement tool that concludes the strength of our associations by making the participant quickly match up faces and words in order to gauge their preconceived notions.[6] In a study conducted by Cornell Law, the findings are as follows: "(1) judges hold implicit biases; (2) these biases can influence their judgement; and (3) judges can, at least in some instances, compensate for their implicit biases."[7] Therefore, it is crucial to evaluate how implicit attitudes can be recognized and what can be done to minimize partiality. The study conducted by Cornell Law had judges participate in the IAT, which allowed them to conclude that such implicit attitudes strongly influence judicial decision-making.[8]

Research suggests it is possible to mitigate the impact of implicit attitudes in the courtroom. The study conducted by Cornell law offers a call to action: "exposing judges to stereotype-incongruent models, providing testing and training, auditing judicial decisions, and altering courtroom practices."[9] However, the conscious attempt to change unconscious preferences requires more substantial research on the navigation of such attitudes within our cognition. Further research must be conducted to develop and understand the complexity that is implicit bias. The more knowledge scholars can obtain about our implicit attitudes, the closer we are to developing concrete, and proactive ways to diminish unjust disparities both in the courtroom and in society.

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FUTURE OF TERM LIMITS IN THE SUPREME COURT

By Lea Frenkel, contributor and editor

Most Americans can point to the recent nominations of Supreme Court justices as a time of polarization and unrest across the country. Given the establishment of what has come to be understood as "life terms" for justices- in reality, the Constitution allows for justices to remain on the court provided they maintain "good behavior"- the nomination of a new justice is an extremely high stakes choice.[1] This is especially true with Americans' growing concerns over the ability of the Supreme Court to dictate changes over the rights of certain groups.

If this is how the court has always operated, though, why should this change? Modern factors such as increasing life expectancy of justices and public perception of the power of the court, coupled with rules created over 200 years ago contribute to the movement against the procedure of life tenure on the Supreme Court.

Once confirmed through the standard nomination process, a nominee will be a Supreme Court justice pending "good behavior," which is generally understood to mean a life term. At the time of the Constitution's writing, a life term was suggested as a way of maintaining a judiciary independent of political pressures.[2] However, with increasing life expectancy, the stakes for nominations are raised. Compared with the judiciaries of other nations, the U.S. is one of few not mandating retirement of justices at a certain age.[3]

In addition, many scholars see the court as having garnered too much power as a result of justice's long terms. In recent memory, the Supreme Court has made landmark decisions concerning healthcare, expression of religion, and even presidential elections, with very little input from the other branches. It is within the powers of the Supreme Court to make such important decisions, as its strength as an institution lies in its freedom to make decisions without being hindered by the political process. That said, it is the view of many legal experts that as justices serve longer terms, the power they amass in ruling on so many impactful

cases is too great, considering that they are not elected, and thus not held responsible for changes in public opinion. As put by Daniel Epps, a law professor at Washington University, "Nothing important should turn on whether some old person chooses to retire or keep working until they're in their 90s." This has been noted by the public, given that as polarization in the country has increased, more and more people have turned to the courts to resolve issues previously not deemed appropriate to rule on.[4]

In response to these changes in American perception of the Supreme Court, a movement called "Fix the Courts" has emerged. While movements to curb the terms of justices are nothing new (in fact, the first of these movements was launched in 1807), this has certainly come the farthest in accomplishing their goal of setting term limits for Supreme Court justices. The proposition they have championed is as follows: justices would serve eighteen-year term limits, with each president appointing two justices per term. Once a justice's term is up, they would have the option to retire, serve on lower courts, or potentially be named a "substitute" in case of emergency. It is important to note that all current justices would be exempt from this rule. People pushing for this change believe that term limits will reduce the stakes of nomination, and increase the independence of the courts from the partisan politics that currently plague it. They claim that it is within our rights to enact such a change based on Congress' previous reforms of the courts.[5]

The grievances motivating this movement have been echoed across the country. Twenty-one constitutional scholars from prestigious universities across the country submitted a letter to Congress in 2017, suggesting a plan nearly identical to that of the Fix the Court movement.[6] Not only academics approve of this plan, though. According to a nationally representative survey conducted in 2020, 60% of Americans support putting in place term limits for Supreme Court justices. What is even more striking is the fact that this support is present across party lines and various ideological beliefs.[7] Support for the movement is clear, and as a result, the first measure to end life terms by statute instead of by amendment, was introduced to the Senate in September of this year.[8]

However, this movement has its fair share of critics as well. The main point of contention with the proposal lies in its constitutionality. Since the Constitution clearly states that justices

will serve as long as they demonstrate "good behavior," critics believe that it cannot be constitutional to undermine this by installing term limits. While those supporting the movement have tried to circumvent this issue by pointing to the ability of justices to continue serving on lower courts, this is not seen as a suitable alternative. Critics use Article III of the Constitution, which establishes a clear difference between "supreme" and "inferior" courts to show that allowing justices to stay on in a different court does not fix the problem.

The movement's opponents also disagree with the possible benefits of enacting term limits. By having a much quicker turnover between justices, they point out that the possibility of dramatic ideological shifts may have dire consequences for the legitimacy of rulings and effectiveness of how they are carried out. If a string of presidents from the same party were to be elected, there is the possibility of having a bench entirely made up of conservative or liberal justices, which would defeat the purpose of an independent judiciary, and could result in contention over cases decided by justices of opposite partisanship.

Finally, given that the Senate plays a vital role in confirming justices, the issue of what will happen if the Senate does not confirm a justice during a president's term is complicated. If each president is allotted two nominations, but their candidate is denied, it follows that the next president may have three nominations to make. Given the intense partisan politics occurring in the Senate, it is not far-fetched to see how this may create problems.[9]

As we look to the future of the Fix the Courts movement, the possibility of life terms currently lies in the hands of the Senate. Given that the decision is up to a governing body divided by party lines, it is important to note that the proposal to establish term limits, largely motivated by a desire to reduce politicization of the courts will inherently involve partisan politics on a grand scale. This irony should not be lost on us, and might be a precursor of what is to come.[10] As such, an ideal plan for fixing the issues of the Supreme Court when it comes to life terms may have yet to be introduced.

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JUSTICES' SHAPING OF HEALTHCARE

By Estee Sharabani, contributor and editor

The foundation of U.S. healthcare was constructed by private sector businesses, which continue to heavily dominate the system. Up until the 21st century, only the executive and legislative branches of The Federal Government had a role in deciding which healthcare policies would be implemented. The government officials did not consult healthcare providers when creating these policies. The aftermath is the multitude of inequities and care disparities that result.

Between 1953 and 1969, the judicial branch became involved with cases concerning blatant racial segregation in hospitals and stark discriminatory disparities in treatment under Medicaid. The period is often referred to as the Warren Court era.

During this era, the rulings that upheld the Social Safety net were contested in a similar manner to the Affordable Care Act. Explemfyied by conservatives of the time, who deemed these decisions regarding racial healthcare discrimination as radical. Thankfully, rulings against legislation with clear-cut civil rights violations were difficult for conservatives of the time to dispute as affirmative arguments would have been outright racist. However, The Affordable Care Act is easier to ideologically oppose as racial healthcare disparities are not typically understood on a systemic level.

Most arguments against the Affordable Care Act fail to acknowledge how racial and ethnic discrimination and the cycle of poverty can be a substantial barrier in marginalized groups' access to healthcare. The Civil Rights Acts of 1964 and Voting Rights Act of 1965 were not nearly enough to eradicate discriminatory practices against Black Americans and other oppressed groups. As civil rights legislation was implemented, Warren Court began to interpret it. Americans were beginning to no longer have denied their rights everyday. This was accomplished by way of increasing the court's hearing of cases that involved what were never before thought of as political questions.

As Chief Justice Earl Warren led the majority of justices to embrace active constructionist

views, the judicial branch became increasingly politically charged. Opinions on Medicaid and the Affordable Care Act typically align with whether or not one sees healthcare as a right the government should ensure and sheer loyalty to a political ideology. The Supreme Court has been able to weigh in on the argument, ruling that mandating all Americans to have healthcare is beyond Congressional powers. By chance, the court was able to justify the mandate as a tax. However, Justices with dissenting opinions see this tax as "coercive" federal spending.

As the judicial realm can only evaluate this legislation in situational practice, it is not plausible for policy to be shaped by the judiciary prior to its passing. Judicial officials are meant to be appointed and trained to give their legal interpretations free of political considerations. By this logic, judicial input would likely be valuable to Congress, when crafting legislation that has to do with non-political issues like access to healthcare. However, given that majorities of a particular ideology on the bench often sway decisions in respective outcomes, it cannot be assumed that their opinions would be free of ideological bias. The severity of political leanings' impact on the bench is demonstrated by the practice of rushed and paused appointments of Supreme Court justices from Marshall to Ginsburg.

Another element to consider is if judges qualified to evaluate matters of healthcare? Individuals analyzing how the system functions on a statistical and economic level are in the most informed position to shape policy decisions. Both the general public and judicial authorities lack a true, practical understanding of the nuances and complexities of healthcare policy. Consequently, healthcare cases are not frequently filed. Thus, lesser demand for judges with backgrounds in healthcare or the call for consultation with policy experts. These perspectives are seen as additional rather than essential. Despite judicial intervention being responsible for millions of Americans lives and loved ones lost and deteriorating.

In 2012, when the Supreme Court ruled Medicaid as an option for states. It would be disheartening to believe that the majority of our most ethical justices saw no issue with making a decision that directly kept 4.8 million low-income American in an insurance coverage gap in states that chose not to expand. What was also not taken into account was the 10 million slightly higher-income Americans who would receive tax credits

to allow them to purchase coverage in those same states.

The immense impact of healthcare related decisions and the ACA's complexity requires formal coordination between healthcare experts and justices. Despite possessing first-hand field experience, healthcare professionals can be ignored by the leaders of our government's branches.

This notion serves as a timely warning, considering the U.S. government's failure to form opinions and policy based on science during the ongoing pandemic. Science and statistics justify themselves. However, if they are ignored in the interest of preserving strict constructionist constitutional views, our country will continue to be a place where health and life is not the primary priority.

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THE SUPREME COURT'S ELECTORAL POLITICS

By Addie Nicholas, contributor and editor

With reluctance to enter the political thicket, particularly in regards to the reapportionment of congressional districts, the U.S. Supreme Court has remained hesitant when dealing with cases that surround the precedent of gerrymandering.[1] In 1812, the first instance of gerrymandering occurred, making it acceptable for politicians to expand their party's power through the process of drawing malapportioned district lines.[2] *Baker v. Carr* (1962) marked the first Supreme Court case which addressed legislative redistricting plans, calling for federal courts to tackle these issues, as gerrymandering was out of the Supreme Court's jurisdiction.[3] Gerrymandering has remained a highly controversial practice through the U.S., however, since 1962, the Supreme Court has been able to limit the powers of states or allow them to continue malapportioning with court approval, overall having a heavy influence on electoral politics.

Baker v. Carr signified the Supreme Court's initial stance on gerrymandering, and since then they have had a major impact on gerrymandering decisions at both state and federal levels. The foundation of *Carr* began in Tennessee, in which "the [state's] legislature had failed to reapportion the state legislative districts in accordance with the state constitution.[4]" In Tennessee, the U.S. District Court deemed that the plaintiff's claim regarding the misrepresentation of districts to the state's population was not within their jurisdiction.

The Supreme Court stated that "legislative apportionment was in fact a justiciable issue and not a political question".[5] In *Baker v. Carr*'s decision, the Fourteenth Amendment had been violated under the Equal Protection Clause, as in order for the case to be brought to the Supreme Court it must violate a federal law, not a state provision. As one of the most powerful institutions of the Federal government, the Supreme Court's vagueness and lack of decisiveness was surprising to the American public, as their lack of involvement regarding gerrymandering cases set a precedent for the Supreme Court's role in electoral politics.

Yet, shortly after *Baker v. Carr*'s decision,

increased amounts of gerrymandering cases were brought before the Supreme Court. *Wesberry v. Sanders* (1964), *Reynolds v. Sims* (1964), and *Gaffney v. Cummings* (1973) all forced the Supreme Court to continue implementing the precedent they had set in *Baker v. Carr*, ultimately helping the Court solidify their position and influence in how state's districts are apportioned. Each case fought against the violation of the Fourteenth Amendment's Equal Protection Clause, however, all resulted in the Supreme Court ruling that although electoral districts must be roughly equal in population, each case's argument was under faulty interpretation of the Clause, and thus were dismissed by the Court.

Following these cases, *Karcher v. Daggett* was brought before the Supreme Court in 1983, marking the first time the Supreme Court went against their decision in *Baker v. Carr*. This case established that "congressional districts must be mathematically equal in population, unless necessary to achieve a legitimate state objective.[6]" In 1983, at the New Jersey General Assembly, it was confirmed that the Democratic governor, who was in control of the New Jersey Legislature at the time, drew district lines to increase their partisanship in the state.

The Supreme Court was able to challenge New Jersey in this case, as the Court held that Daggett was, "unconstitutional because they 'were not the result of a good-faith effort to achieve population equality'… and argued that relying on a strict numerical standard of populations to assess district equality would be misguided.[7]" The Court shut down attempts of the Democrat's influence on the electoral system without directly attributing their reason to partisanship, but stating that it was simply a mis-appropriationment of New Jersey's population.

Karcher v. Daggett further proved the Supreme Court's reluctance to recognize the influence of partisanship in the case, however, it marked the turning point of their involvement. The Supreme Court focused on the apportionment problems in *Karcher v. Daggett*, rather than attributing New Jersey's gerrymandering issue to the power of political parties. This made the public effects of the Supreme Court's decision widely evident over the next thirty years.

Rucho v. Common Cause (2019) marked one of the most recent Supreme Court cases involving gerrymandering. The case established that "partisan gerrymandering claims are not justiciable

because they present a political question beyond the reach of the federal courts."[8] In 2016 a congressional map was created, however, it was considered unjust by a three-judge district court. Robert Rucho appealed the decision to the Supreme Court, stating that the district's ruling was unfair.[9] Through this decision, the Supreme Court stated that federal courts can be involved in cases regarding racial gerrymandering, however, it is not in their power to decide when political gerrymandering has crossed a line of partisanship.10 The ruling for this case marked a nonsubstantive result for not only North Carolina, but for future cases involving partisan issues.

Rucho v. Common Clause labeled a limitation of the Supreme Court, as they declined making a concrete decision on the influence of parties in districiting, thus allowing the Senate's redistricting plan. The case was criticized by Justice Elena Kagan, stating that the Supreme Court was "sidestepping a critical question involving the violation of 'the most fundamental of . . . constitutional rights: the rights to participate equally in the political process, to join with others to advance political beliefs, and to choose their political representatives.[11]" The Court's unwillingness to provide judicial support for those fighting the inequality of gerrymandering substantiates the amount of power they hold, as in some states, one party will never have the chance to win an election based on how the district lines are drawn.

The Supreme Court's judicial influence on electoral politics is not limited to the cases explained within this article, however, these landmark cases did establish their powers in influencing gerrymandering within states. Partisanship is embedded in the definition of gerrymandering as, a "state must have competitive parties (i.e. no one-party domination), the legislature must use a majority as opposed to a two-thirds rule, and there must be one-party control of the districting process (i.e. both houses of the legislature of governorship)[12]" in order for the process to work. Due to the politicized nature of gerrymandering, the Supreme Court's stance to eliminate party influence from a case has become controversial. Further cases involving gerrymandering will surface and what occurs in the future will determine the results of elections and thus help shape the nation and the fairness of America's electoral system.

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MOST CRITICISM OF AMY CONEY BARRETT IS MISGUIDED AND PREMATURE

By Benjamin Ofer, contributor

In a year defined by disruption, the death of Justice Ruth Bader Ginsburg this past September struck a poignant chord with many Americans and women around the world. Ginsburg certainly left big shoes to fill, and this past October Justice Amy Coney Barrett was appointed to fill them. Since her nomination, political conversation has preeminently centered around Barrett's conservatism, Catholicism, and originalist constitutional philosophy. Critics have been quick to deride her confirmation as a blow to the legacy of Ruth Bader Ginsburg, to the future of *Roe v. Wade*, and to women's rights in general. These critics are too hasty: history shows that the Supreme Court is more insulated from politics than many realize, exemplified by numerous instances of justices defying their appointing administration's expectations. It is crucial to recognize not only the presence, but prevalence of these abnormalities before attempting to predict the impact of Amy Coney Barrett's confirmation.

In the twentieth and twenty-first centuries, there have been several notable instances of conservative-leaning justices voting in favor of liberal issues before the Court. In the 1950s, Earl Warren and William Brennan were appointed to the bench as political conservatives, yet both were instrumental in some of the nation's most powerful liberal reforms, including *Brown v. Board of Education* (1954). In 1969, Richard Nixon elevated Warren Burger to the seat of chief justice, expecting him fill the role of a "law and order conservative."[1] However, Burger was significantly more moderate than Nixon expected, and would famously vote to legalize abortion in *Roe V. Wade* (1973). Harry Blackmun, another Nixon appointee, would write the majority opinion in the landmark case.[2] More recently, in the 2015 case *Obergefell v. Hodges*, not only did Ronald Reagan's conservative and devoutly Catholic appointee Anthony Kennedy vote to legalize gay marriage, he took it upon himself to author the landmark opinion.[3] Sitting Chief Justice John Roberts has been criticized by conservatives for his slew of left-leaning decisions upholding the

Affordable Care Act (ACA), as well as LGBTQ and immigrants' rights.[4] Just this past June, President Donald Trump's appointee Neil Gorsuch led the Court in the groundbreaking ruling that LGBTQ workers are protected by the Civil Rights Act of 1964. These cases and dozens more like them sound surprising, but they shouldn't be. Although the Supreme Court is heavily ingrained in the country's politics, it is in theory an apolitical institution. These cases strengthen the legitimacy of the United States' separation of powers and of the Supreme Court as an institution, while also challenging the political criticism faced by Amy Coney Barrett.

Barrett's Catholic identity has been particularly scrutinized, which is interesting, considering her confirmation made her the seventh Catholic justice sitting on the Supreme Court. Barrett is indeed unapologetic about her devout religious beliefs, but this should not serve as a litmus test for her jurisprudence: take Anthony Kennedy, for example. Barrett has openly stated that she never believes it is appropriate for judges to impose personal convictions on their decisions, and her positions taken during her career as a law professor - namely on gun rights, immigration, and healthcare - show little religious influence.[5] The notion that Catholicism connotes conservatism in judicial proceedings is further contested by the presence of liberal-leaning Catholic justices like Sonia Sotomayer.

Much has also been made of Barrett's relationship with the late Justice Antonin Scalia, and of her adherence to the constitutional originalism that he was famous for. In a 2017 publication for the Notre Dame Law Review, Barrett shone a light on the true nature of originalism, explaining that exceptions can and need to be made to the seemingly radical philosophy in order to adjudicate appropriately. She described Scalia as "a 'faint-hearted originalist' who would abandon the [Constitution's] historical meaning when following it was intolerable," and went on to quote him as saying "I am an originalist. I am not a nut."[6] Barrett's own words make it clear that her reverence for Scalia and originalism do not bind her to any predetermined path of judicial philosophy.

Just weeks ago the Supreme Court rejected a Texas lawsuit attempting to advance the Trump administration's claims of electoral fraud in the 2020 presidential election. The lack of dissent from any of Trump's appointees underscores the fact that Supreme Court justices do not have

any loyalty or obligation towards their nominating presidents or party. This misconception still arises in many Americans when they equate their ill-feelings towards President Donald Trump with an innate distrust for Amy Coney Barrett. History shows that it is an error to reduce Barrett to an automatic conservative vote simply because she was nominated by a conservative administration, or due to her political, religious, or constitutional philosophies. Amy Coney Barrett may very well judicate in a manner that causes this article to age poorly, but only time, not political critics, will tell what her impact on the United States will be.

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A PROFILE ON AMY CONEY BARRETT

By Laura DeLuca, contributor and editor

On September 26, 2020, President Donald Trump nominated Amy Coney Barrett to the Supreme Court.[1] This decision was controversial both because this was just one week after Justice Ruth Bader Ginsburg died, and because Senator Mitch McConnell pushed for her to be elected, despite previously condemning the Supreme Court nomination of Merrick Garland under President Barack Obama.[2]

The Senate Judiciary Committee ultimately unanimously voted in support of President Trump's nomination as Democrats boycotted this decision on October 22, 2020.[3] On October 26, 2020, the Senate voted in support of her with a 52-48 vote; on the same day, Justice Clarence Thomas swore her in.[4]

Amy Coney Barrett was born in New Orleans, Louisiana in 1972.[5] She attended Rhodes College and graduated magna cum laude with a B.A. in English literature; she then went to law school at Notre Dame and graduated summa cum laude.[6]

After graduating from law school, Barrett worked as a judicial clerk for both Judge Laurence Silberman in the D.C. Circuit and Justice Antonin Scalia in the Supreme Court.[7] She then worked at Miller, Cassidy, Larroca & Lewin before taking a position as the John M. Olin Fellow at Law at George Washington University Law School in 2001.[8] In 2002, she became an assistant professor of law at Notre Dame, where she was known for her vast knowledge on federal courts and constitutional law.[9] She was eventually nominated for the Seventh Circuit by President Trump in May 2017; this nomination was supported in October 2017 with a 55-43 vote.[10]

Barrett served on the Seventh Circuit for three years, and during this time she twice dissented from the court's denial of rehearing cases that removed many of Indiana's restrictions on abortion.[11] After Barrett's colleagues denied restrictions regarding the required notification of guardians when minors seek abortions, the right to abortion solely because of the fetus's sex, race, or disability, and the discarding of fetal remains

under the guise of it being surgical waste, the state asked the court to reheat the fetal remains issue.[12] The court refused, and Barrett argued for a dissent on the grounds that controlling the disposal of remains is not an "undue burden" within Supreme Court precedents regarding abortion rights, and referred to the selective-abortion legislation as an "anti-eugenics law."[13]

In terms of Amy Coney Barrett's views on constitutional construction, Barrett has publicly aligned herself with the late Supreme Court Justice Antonin Scalia.[14] This means that Barrett has identified herself as an originalist, who strictly adheres to the intentions of the Framers when applying Constitutional law to cases.[15]

To estimate how Amy Coney Barrett's legal history translates into predictions regarding how she will vote, one can look at some of her Seventh Circuit decisions. With regard to criminal defendant rights, in *Schmidt v. Foster*, Barrett dissented. In this case, the defendant's lawyer could not partake in a pre-trial hearing regarding utilization of a Wisconsin state-law calling for "adequate provocation" to reduce a charge from first- to second-degree homicide.[16] The majority agreed that the defendant was denied effective counsel under the Sixth Amendment; Barrett was against this, arguing that no denial of counsel occurred.[17] In *Sims v. Hyatte*, Barrett also dissented, this time disagreeing with the overturning of an attempted murder conviction after prosecutors did not disclose key evidence.[18] Similarly, regarding rights of the incarcerated, Barrett dissented in *McCottrell v. White*, a case in which two incarcerated men were injured by correction officers shooting into a crowd of people after a fight among two prisoners.[19] Barrett argued that the surveillance video and medical records did not show enough evidence to support the claim that the injured men underwent "cruel and unusual punishment."[20]

As for privacy rights, Barrett is in favor of protecting Fourth Amendment rights, following precedents that condemn crossing boundaries into citizens' private lives.[21] In *Us v. Terry, Barrett* argued that Drug Enforcement Administration agents violated a man's right to privacy under the Fourth Amendment because officers searched the man's apartment by gaining entry from someone who did not live there.[22] Because they did not have a search warrant, this evidence was deemed unusable.[23] In *U.S. v. Watson*, Barrett wrote that an anonymous report regarding boys

toying with guns did not give the police a right to pull over a vehicle.[24]

When it comes to racial discrimination, in 2019 Barrett dismissed a lawsuit alleging workplace discrimination by Terry Smith, a black man that worked for Illinois transportation who sued after being fired.[25] He accused his supervisor Lloyd Colbert of calling him a racial slur.[26] Barrett condemned racial slurs, writing that "The n-word is an egregious racial epithet."[27] However, she ultimately concluded that one must also prove that his supervisor calling him this racial slur created an abusive work environment, which she argues that he did not prove.[28]

With regard to gun rights, in *Kanter v. Barr* (2019), Barrett argued that a nonviolent felony conviction should not prevent someone from being able to own a gun.[29] Here, in spite of the appeals court rejecting this lawsuit, Barrett argued that those "who have demonstrated a proclivity for violence or whose possession of guns would otherwise threaten the public safety" should be legally barred from owning a weapon, and since mail fraud is nonviolent, this was a violation of the plaintiff's Second Amendment rights.[30]

Lastly, as for immigration, in June, Barrett dissented when two of her colleagues on a Seventh Circuit panel paused the Trump administration policy in Chicago alone that could cause immigrants who use food stamps to lose their status as permanent residents.[31] The new policy states that legal immigrants can be denied green cards due to their use of public benefits, like Medicaid and housing vouchers.[32] Barrett argued that immigration law and "Clinton-era welfare overhaul" already limited the public help available to non-citizens.[33]

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LIFE TENURE: OVERSTAYING ITS WELCOME?

By Zarnaab Javaid, contributor and editor

The recent appointment of Justice Amy Coney Barrett to the United States Supreme Court was, to put things lightly, contentious. In addition to questions about Barrett's experience and ideology, the process involved intense partisan conflict, and even became entangled with the 2020 Presidential Election.[1] But why was the appointment of a justice to the nation's highest Court, meant to be nonpartisan and apolitical in its nature, such a controversial affair? Ironically, an obvious answer lies in the nature of that same Court: life tenure for justices. All Supreme Court justices, appointed by a sitting president and confirmed by the Senate, have historically served until their death, resignation, or, in rare cases, through forced removal. The purpose of life tenure was outlined by Alexander Hamilton in Federalist No. 78, an essay from the Federalist Papers, which were written to promote the ratification of the Constitution. It was Hamilton's view that life tenure would ensure the firmness and independence of the Supreme Court from the other branches of the federal government.[2] But in the centuries since those words were written, the country has changed considerably, leading some to question the effects of life tenure. What are the arguments for and against it? How, if at all, has it impacted the Supreme Court over time?

As noted earlier, the prevailing justification for giving Supreme Court justices life tenure is, first and foremost, to ensure the Court's independence. The other two branches of the federal government, the executive and legislative, are subject to partisan politics and a regular cycle of elections. Public servants in those two branches often have incentives to act in ways that please their constituents or secure more votes, and those incentives can often override the broader motivation to implement policies that benefit the public at large. By giving Supreme Court justices life tenure, requiring presidential appointment, and routing confirmation through the Senate, justices are separated from the electoral process to the extent that their decisions need not please any

constituency. This is also meant to ensure that the justices appointed have the appropriate qualifications and experience to serve on the nation's highest Court.[3] Notably, however, life tenure does still involve the Court in partisan politics, but by way of the justices' ideologies.

Prior to their appointment, prospective justices have their judicial records vetted by presidential staff, as well as judicial watchdogs, whose purpose is to ensure that appointees do not have overtly ideological bases for the majority of their decisions.[4] For example, justices are allowed to have views about how the Constitution should be interpreted, but heated political questions do not fall under that purview. However, because justices serve for life, presidents on both sides of the political spectrum have historically appointed justices known to have similar ideological profiles to themselves.[5] For each political party, the ideal scenario involves having a majority of sitting justices sharing its ideology, in the hope that this influences the justices' decisions enough to sway major decisions in their favor. In practice, this makes each individual appointment immensely consequential, especially given the power the Court holds. The appointment of Amy Coney Barrett, known for her record as a stout religious conservative, is widely believed to have been more about securing a seat for someone of her ideology on the Court rather than the most qualified prospective justice.[6] The Republican-controlled Senate that refused to confirm former President Barack Obama's nominee Merrick Garland also ostensibly would have changed their tune, had Garland been a known conservative; but, in fairness, a Democratic-controlled Senate likely would have acted similarly with respect to Barrett's nomination as well.

What this means is that despite the efforts of the Framers of the United States Constitution, the appointment process for justices has become heavily politicized, primarily because of the significance of life tenure. In response, many advocates, from organizations like Fix The Court, have voiced support for term limits on Supreme Court justices.[7] They argue that this would depoliticize the process and make the Court more receptive to American public opinion. These advocates lament the seemingly undemocratic nature of unelected actors having such influence on key societal issues, like abortion, gun control and affirmative action.[8] The most popular "reform" plan for the Court offered by this group involves the

imposition of eighteen-year term limits on sitting justices, with a staggered two-year appointment cycle. This would also make each individual appointment less consequential, allowing more room for partisan compromise and the elimination of practices like outright refusal to confirm a justice.[9] Overall, this movement has not gained much mainstream traction, but this may also be rooted in partisan causes. A party with an ideological advantage in the judiciary is unlikely to support reform measures like term limits, but this prevents the widespread support that is likely needed for such a drastic change to take hold.

What does this mean for the Court moving forward? At this point, the discussion at hand is unlikely to change the structure of the Court to any meaningful extent. Over the Court's history, justices have served for increasing amounts of time, and fewer justices have been appointed in each successive century.[10] This trend will likely continue, but the appointment process may also face a reckoning in the near future; with increasingly politicized appointments and party conflicts that involve constitutional violations, the nation might decide that change is necessary sooner rather than later. Overall, term limits mostly seem to be a fringe suggestion, but this discussion, like all other discussions about the effectiveness and responsiveness of our political institutions, is certainly worth having. For now, however, it will remain only a discussion.

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REMEMBERING THE PIONEER OF CIVIL RIGHTS: RBG

By Amelia Ferris, contributor

One of the many unfortunate events that occurred during the year 2020 was the death of Supreme Court Justice Ruth Bader Ginsburg. Justice Ginsburg was appointed by President Bill Clinton in 1993, where she would serve twenty-seven years on the United States Supreme Court. She passed away on September 18, 2020 due to complications in her battle against metastatic pancreatic cancer.[1] Many mourned her loss, as she was a pop culture sensation idolized for her determination with regard to equality. Throughout her years serving on the Supreme Court, Ruth Bader Ginsburg (RBG) continuously fought to defy discrimination against women and the LGBTQ community.

Before RBG had the opportunity to serve on the highest Court in our nation, she had to overcome obstacles of her own. She enrolled at Harvard Law School in 1956, where she balanced being a law student, wife, and mother. Her class consisted of eight other female students and five hundred male students: these class demographics clearly portray a disproportionate ratio between genders. As part of her admittance to Harvard Law, the Dean asked her (as well as the other female students) why she was taking the spot of man. Women were also denied access to the library and were restricted in class participation.[2] Despite the attempts to stunt her ambition, RBG took her talents to the Harvard Law Review where she became the first female member. After completing one year at Harvard, she transferred to Columbia Law School, where she finished as valedictorian of her class. Although she was evidently brilliant, she could not find employment in New York law firms due to sexism. Instead, she decided to pursue another career, which ultimately led her to her famous position as the second female Supreme Court Justice.[3]

RBG has done much for the advancement of women's equality. In 1972, Ginsburg joined the American Civil Liberties Union (ACLU), where she co-founded and spent twenty-one years on the Women's Rights Project. As chief litigator, she carried various landmark cases to the Supreme

Court, where she successfully fought against gender discrimination under the protections of the Equal Protection Clause of the 14th Amendment.[4] An example of this success was seen in *Reed v. Reed* (1973). Sally Reed and her husband were a separated couple who experienced the painful loss of their son. As a result of his death, both parents wanted to claim themselves as executives of his estate. The Idaho law appointed Mr. Reed as the executive solely because he was a man.[5] Ms. Reed ended up taking the matter to the judicial system, where it was eventually heard by the Supreme Court. RBG co-wrote a brief in favor of Ms. Reed, declaring that the Idaho law violated the Equal Protection Clause of the 14th Amendment. The justices unanimously agreed that such a law was unconstitutional, making history: this was the first time a court determined a law to be discriminatory towards women.[6] This case led to the Equal Credit Opportunity Act (1974) which gave women the right to hold credit cards and loans in their name. This type of freedom was a big step for women to detach from financial dependency on men.

RBG's success with the 14th Amendment was further seen in *Frontiero v. Richardson* (1973). Shannon Frontiero was a woman lieutenant serving in the Air Force. Male members of the military could claim their wives as dependents, but female members of the military had to prove their husband was dependent on them for half of their marriage. Frontiero filed her husband as a dependent, but due to the rules in place, the couple was denied housing or medical benefits. As a result, the couple sued in federal court, and the case made its way to the Supreme Court. Ginsburg argued in defense of Frontiero on behalf of the ACLU. The case resulted in the abolishment of the rule, as it was also deemed unconstitutional and in violation of the Equal Protection Clause of the 14th Amendment. This case gave women the acknowledgment as equal military members to their male counterparts.[7]

Additionally, RBG had further advanced equal perception of male and female soldiers during her time on the Supreme Court. In the *United States v. Virginia* (1996), the Virginia Military Institute (VMI) was a state-funded higher education institution. This school provided students with the unique blend of academic and military training. However, one issue with this school was that it only accepted male applicants.[8] After an anonymous female filed a complaint

with the United States Attorney General, the case was taken to a district court, followed by the Court of Appeals for the Fourth Circuit. Both courts approved a remedy that allowed VMI to open a sister program for women: the Virginia Women's Institute for Leadership (VWIL).[9] The remedy was sent to the Supreme Court for judicial review, where they found numerous problems with this solution. The VWIL had less funding, prestige, and completely different training methods. RBG gave the majority opinion that female soldiers should have the same rights and opportunities as men, and that such a remedy is outdated. Such gender division enables negative stereotypes of women's abilities and generalizes them as not being good enough.[10]

Furthermore, in her fight for gender equality, RBG has shown her fervent support of the LGBTQ community. In 1992, the state of Colorado voted to add an amendment to their state constitution which would prevent any type of governmental protection for gay people.[11] The state was sued for the amendment and eventually made it to the Supreme Court, giving Ginsburg her first opportunity to weigh in on same-sex couple discrimination. Ginsburg was a part of the majority ruling that such an amendment was a violation of the Equal Protection Clause. A few years later Ginsburg had another opportunity to weigh in on such bigotry in *Lawrence v. Texas* (2003). In this case, John Lawrence was arrested for having sexual intercourse with his male partner under anti-sodomy laws. The outcome was a big step towards equality, as the laws were seen as unconstitutional and a violation of the Due Process Clause.[12] One of the most memorable moments in civil rights history was *Obergefell v. Hodges* (2015), which legalized gay marriage across the nation. Up until that decision, fourteen states had placed bans on such marriages, singling out one population of citizens. Ginsburg commented that, "Marriage today is not what it was under the common law tradition, under the civil law tradition," and questioned if preserving the traditional idea of marriage was progressive, stating "Would that be a choice that state should [still] be allowed to have? To cling to marriage the way it once was?"[13] By constantly defending the LGBTQ community in the courtroom RGB extended rightful liberty to an underrepresented portion of civilians.[14]

As we reflect on the legacy Ginsburg has left on our society, it is easy to claim that she was a true crusader in civil rights justice. Her

perspective on encouraging cultural diffusion within America has made her the respected icon she will be remembered as. Overall, throughout the entirety of her career, RBG systematically conquered laws that prohibit human equality and her impact on society will never go unrecognized or forgotten.

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Published with the help and support of the Philosophy, Politics, and Law department at Binghamton University

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