

Ruth Bader Ginsburg's death has brought politics back into the election race



The passing of Supreme Court Justice Ruth Bader Ginsburg last week has further shaken up an already volatile presidential election. [Julie Norman](#) writes that Republican moves to fill Ginsburg's seat quickly will put 'culture war' issues such as abortion and the fate of the Affordable Care Act back on the table for this election, as well as reigniting debates over the size of the Supreme Court.

The passing of Supreme Court Justice Ruth Bader Ginsburg, and the anticipated soon to come Supreme Court nomination battle, is bringing politics back in to the 2020 race in more ways than one. This election year has already been tumultuous and divisive – but the usual 'culture war' fault-lines that have driven polarisation in recent years have been mostly obscured by the simultaneous crises of the coronavirus pandemic, economic stagnation, and racial reckoning. Now, with Ginsburg's passing, key issues are surging back to the forefront, alongside crucial questions of process and precedent, that will reshape the race for Republicans and Democrats alike.

Issues, Ideology, and Identity

The now likely tilt of the court to a 6-3 conservative majority in the near future has significant implications for a number of issues that have become increasingly relevant in recent decades in American politics, anchored not merely in questions of policy or ideology, but in conceptions of [moral identity](#).

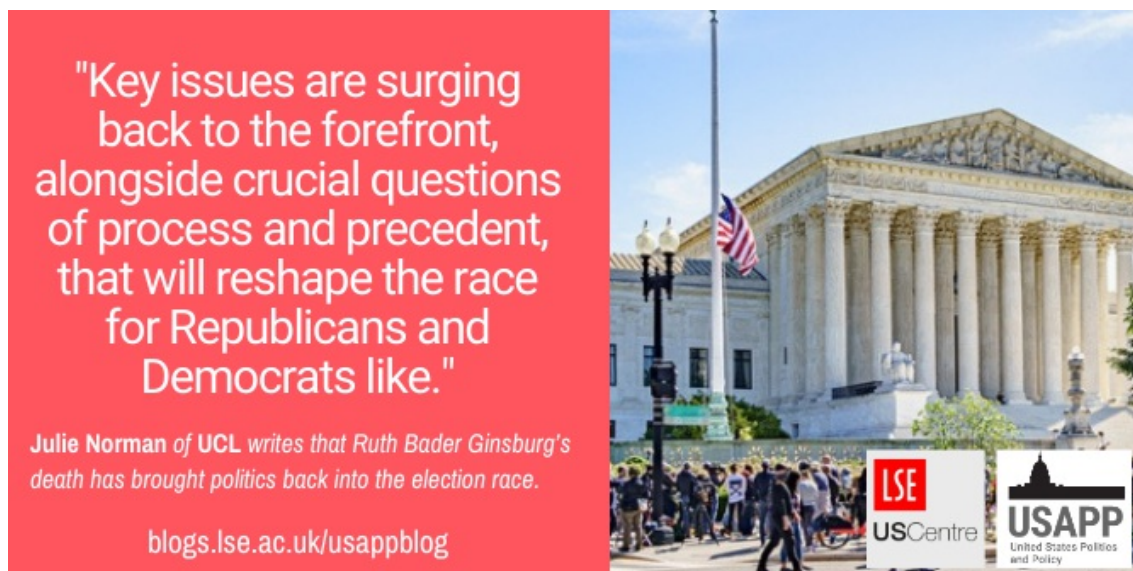
Of these issues, abortion is one of the most controversial, with multiple cases coming before the court in the nearly fifty years since the landmark *Roe v. Wade* (1973) decision that affirmed a woman's right to terminate a pregnancy. Although many of those cases, including *Planned Parenthood v. Casey* (1992) and *Gonzalez v. Carhart* (2007), put limitations on reproductive rights, they did not seek to overturn *Roe* completely. With the now likely appointment of a conservative justice to replace Ginsburg however, abortion advocates worry that the court will now have the votes to overturn *Roe* or weaken it "[beyond recognition](#)." While the issue of abortion has been less prominent in both presidential campaigns this year so far, we can expect this change in the court to galvanise the issue for pro-life and pro-choice advocates alike, making reproductive rights and gender politics much more central in the election.

More imminently, the change in the court's balance will most likely affect the future of the Affordable Care Act (ACA), with the court set to review the law for a third time this year. [Polls](#) indicated that health care was a major issue for voters even before the coronavirus, and while it has remained important throughout the pandemic, it has [dropped](#) 16 percentage points since February in importance in the wake of recent crises. With oral arguments of the latest ACA case, *California v. Texas*, to begin just a week after Election Day, we can expect a renewed focus on Obamacare from those in both parties most committed to dismantling and preserving it, respectively. While it is unclear yet if the new justice will be confirmed by then, the shift in the court's composition provides a much [greater opportunity](#) for the lawsuit to succeed and upend the health care law.

Process, Precedent, and Partisanship

In addition to bringing key issues back in, the Supreme Court shakeup is also raising new questions regarding process, precedence, and partisanship. First and foremost, Senate Majority Leader Mitch McConnell's decision to [fast-track](#) a confirmation vote in the Senate, just four years after blocking even a confirmation hearing for Obama's nominee Merrick Garland during an election year, though not surprising, is setting in motion a partisan battle in the Senate. With Republicans holding an effective 53-47 majority, Democrats are hoping that [GOP moderates](#) like Lisa Murkowski (R-AK) and Susan Collins (R-ME) will remain opposed to seating a justice this close to the election. But there will be increased pressure on the same senators to double-down on conservative interests and fall in line with the party, underscoring for voters the necessity of party loyalty, even when not in full favour of Trump.

Meanwhile, the prospect of a 6-3 conservative majority court has reignited liberal calls for [expanding the court](#) if Democrats retake the Senate, with Senator Ed Markey (D-Mass) [tweeting](#) just that on Friday night after Ginsburg's death. Though popular with some progressives, Democratic nominee Joe Biden [spoke out](#) against packing the court during the primaries when others were pushing the idea, noting that the move could alienate moderate voters. If Republicans move ahead with a fast confirmation however, Biden will most likely face increasing pressure from the further left elements of the party to consider expansion.



[“2020.09.19 Grieving for Ruth Bader Ginsburg, Washington, DC USA263 66233”](#) by [Ted Eytan](#) is licensed under [CC BY SA 2.0](#)

Election Implications

In addition to bringing wedge issues and hyper-partisanship back to the forefront, the change in the court will have an immediate impact on the campaigns and perhaps the outcome of the election itself. Indeed, in the unlikely chance that the results of the presidential election reach the Supreme Court, as occurred in the 2000 election, Ginsburg's absence will [loom large](#), even if her seat is still vacant.

More immediately, the news of Ginsburg's passing has already done the nearly impossible of moving the news cycle off the triad of interrelated 2020 crises. In doing so, it has galvanised both presidential campaigns in different ways, giving Trump a boon to deliver to conservative voters, while presenting Democrats with an opportunity to mobilise voters less enthusiastic about Biden around Ginsburg's legacy of gender equality or democratic processes more broadly. The spotlight on the Senate confirmation will also bring renewed focus on down-ballot races and make [ticket-splitting](#) less likely.

Ginsburg's death will no doubt have an impact on this election. But her life had an even larger impact on multiple facets of American democracy. A pioneer of women's rights and gender equality, she is also recognised for her commitment to civility, and her adherence to debate over dogma, persuasion over anger. As partisan politics are thrust back into the election, threatening to further deepen polarization, we would be wise to remember the aspects of her legacy that garnered her respect from across the political spectrum.

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