

## In the long run, the Supreme Court leads public opinion on controversial issues

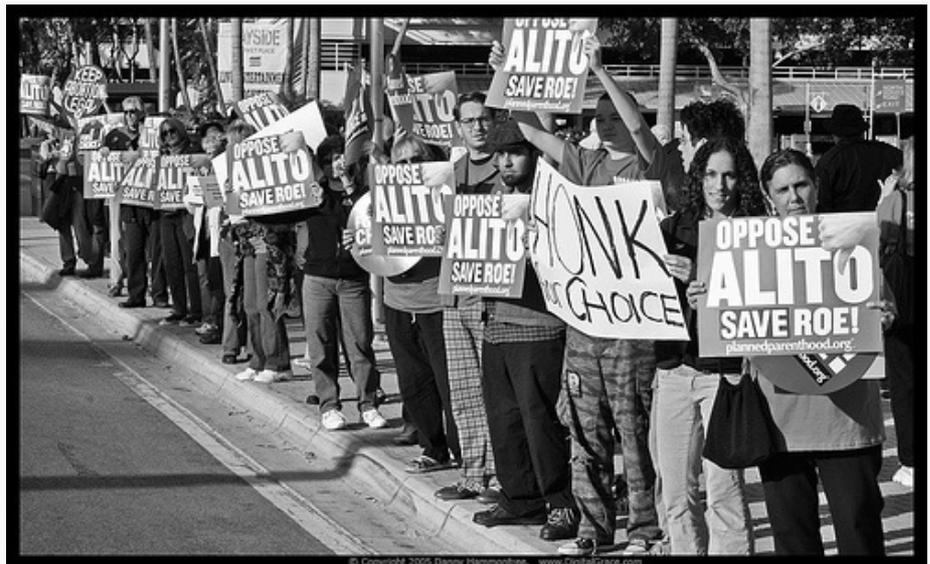
*It has always been a matter of debate if Supreme Court rulings consolidate opposition to an issue or lead to greater public acceptance of it. Using a statistical model of the American “policy mood” after major rulings, [Joseph Ura](#) finds that, while there may be a short-term backlash immediately after a decision, public opinion in the long run tends to follow the position adopted by the Supreme Court. Because of this, he writes, the Supreme Court may ultimately be able to shape the broader political climate in the United States.*



The Supreme Court often looms large in narratives of American political development since World War II. The Court’s decisions are cast in leading roles in the history of the great expansion of legal equality and individual liberty that marked much of the last sixty years of American politics. For example, *Roe v. Wade* (1973), which invalidated state laws banning abortions, was “[a milestone for women in America](#)” that ensured that women could “participate fully in society” by protecting their “dignity...and health.” Likewise, *Brown v. Board of Education* (1954), which struck down state laws mandating racial segregation in public education, is portrayed as a starting point for the civil rights movement and a decision that “[ignited a legal and social revolution in race relations.](#)”

This perspective rests on the idea that the Supreme Court can lead public opinion—an ideal with special appeal for mid-twentieth century progressives who hoped that the judicial action might catalyze broad social change. These scholars envisioned the Court as a “[republican schoolmaster](#)” that could “transfer to the minds of the citizens the modes of thought lying behind legal language and the notions of right fundamental to the regime” or an “educational body” leading “[a vital national seminar.](#)” They argued that the moral force of the Supreme Court and American’s deep loyalty to the Court and the Constitution for which it presumed to speak might “appeal to men’s better natures” and remind them of their fundamental commitments to equality and equity “[which may have been forgotten in the moment’s hue and cry.](#)”

Despite these expectations, though, evidence of the Supreme Court’s ability to shape Americans’ political attitudes has been mixed. Franklin and Kosaki’s [seminal study](#) of public responses to *Roe v. Wade* (1973), for example, found that public support for access to legal abortion to protect a mother’s life and in cases of rape or probable birth defects increased from 1972 (prior to *Roe*) to 1973 (after the Court’s abortion decision) while there was no significant change in the level of public support from 1972 to 1973 for legal abortion due to families’ economic circumstances, a mother’s marital status, or parents’ desire to have no more children. [Subsequent studies](#) examining year-over-year changes in attitudes about the [death penalty](#) and [gay rights](#) have similarly found uneven support for the idea that the Court pulls public opinion toward its position. More broadly, in two separate studies, [Marshall](#) compares a total of forty-six pre-decision and post-decision polls (eighteen in the 1989 study and another twenty-eight in the 2008 study)



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asked in similar forms, though at substantially variable intervals, investigating public attitudes on issues before the Court, finding that “poll shifts” away from positions adopted by the Court happen as often as shifts toward the Court’s positions.

Despite its development over the last three decades, though, the literature on public responses to Supreme Court decisions is limited in two important ways. First, these prior studies tend to focus on the effects of individual cases on public attitudes. This approach prevents scholars from identifying effects associated with the accumulated influence of Supreme Court decisions— either within or across issues. Second, the literature emphasizes comparisons of public opinion shortly before and shortly after Supreme Court decisions. This methodological choice has prevented scholars from identifying long-term dynamics that might follow from Supreme Court decisions.

To overcome these obstacles and reconsider the Supreme Court’s ability to influence American’s hearts and minds, I [borrow from research examining American’s aggregate responses to policymaking](#) in the elected branches of government and national economic conditions. I use data on the overall level of liberalism or conservatism in American public opinion since the mid-1950s [developed by Jim Stimson](#) at the University of North Carolina at Chapel Hill. This “policy mood” data collapses scores of national survey questions into a single measure of the country’s overall demand for greater or lesser policy liberalism. I use these data to estimate a model of the cumulative influence of Supreme Court decisions on Americans’ overall levels of liberalism or conservatism. The particular statistical model I utilize also allows me to identify whether the Court influence public opinion in the short-run, the long-run, or both.

The data show that public responses to important Supreme Court decisions are generally marked by a backlash in public opinion in the short-term that decays and is replaced by a long-run movement in public opinion toward the positions adopted by the Court. In other words, on average, there is negative reaction in public opinion against important decisions of the Supreme Court. However, these negative responses are relatively short lived. Over the long run, backlash against the Court’s decisions tends to be replaced by significant movement toward positions taken by the Supreme Court.

The key result of the study is that the Supreme Court generally leads public opinion in an important way—even if there is typically some initial pushback against its decisions in public opinion. This effect is manifest as an incremental, long-run ideological shift toward the cumulative results of Supreme Court decisions. By focusing on the relationship between the Supreme Court and public opinion considered one case at a time and only over the short run, previous studies have overlooked the aggregate, dynamic relationship between the Court and public opinion. By stepping back and taking long-run view, the data show significant evidence that the cumulative liberalism or conservatism in Supreme Court decisions has an important influence on ideological changes in American public opinion.



Moreover, this study shows that the Court may have incentives to push or challenge public opinion with its decisions. Though the Court will generally face some backlash against its actions, public opinion will gradually move toward the Court, creating a political climate more consistent with the preferences of a controlling majority on the Court. Ultimately, it may indirectly influence the composition and behavior of other branches of government in ways supportive of the Court and its decisions. The potential for the Supreme Court to help create political

climates that reinforce and extend the policy implications of its own decisions may provide new ways to interpret and investigate a variety of important social movements and public opinion trends that have ultimately played out in the Court, Congress, and public opinion including the development of the [civil rights movement](#) and the [emergence](#) of the modern [conservative movement](#).

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