

What Do The American People Think About the 2020 Supreme Court Cases?

Results from SCOTUSPoll, a collaboration between researchers at the Harvard Kennedy School of Government, the Stanford Graduate School of Business, and the University of Texas

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This memo reports results from the 2020 SCOTUSPoll, a nationally representative survey of American's attitudes on the major Supreme Court cases argued during the 2019-2020 term. The survey was conducted online using a nationally representable sample of 2,000 American adults by the polling firm YouGov between April 29, 2020 and May 12, 2020. The poll's margin of error is $\pm 2.2\%$.

The goal of the survey is to gauge how Americans feel about the major topics being decided by the Supreme Court in advance on the Court issuing decisions in the summer. Regular surveys of Americans report whether they agree or disagree with decisions made by Congress and by the President; this survey applies the same attention to Americans' attitudes on issues handled by the Court. This kind of investigation is critical: Given the Court's new 5-4 conservative majority as well as our highly polarized political landscape, it is possible that the Court will be out of step with the Americans' attitudes, thus undermining its public standing and legitimacy. Although the Court is not designed to be a majoritarian institution, these data help us understand the extent to which Court decisions are in step with Americans' attitudes.

Summary of Results

The purpose of the survey is to assess how people would feel about the actual case outcomes as opposed to the legal arguments or jurisprudential considerations. We therefore selected major cases from the 2019-2020 term as identified by important media outlets. For all questions, half the respondents received the questions as worded below, whereas half received versions where the responses options were reversed.

For most of the issues (LGBT rights, undocumented immigrants, abortion, President Trump's tax records, the Consumer Financial Protection Bureau, the Affordable Care Act), the majority of Americans support the liberal position. It will be interesting to see how the Court decides these issues given that the swing justice (John Roberts) is a conservative.

On the issue of religious freedom (scholarships for religious schools and employer mandates to provide contraception), the majority of Americans support the conservative position.

On most issues, there is a large divide between Democratic and Republican citizens. One exception is a consensus on the electoral college, with Americans of all political persuasions believing that states should be allowed to force electors to vote for the presidential candidate chosen by a state's voters.

Issue: LGBT Rights

Cases #1. *Bostock v. Clayton County, Georgia*

Some people believe that it should be illegal for employees to be fired based on their sexual orientation because it is discrimination on the basis of sex. Other people think that it should be legal because it is not discrimination on the basis of sex.

What do you think?

It should be ILLEGAL for employees to be fired based on their sexual orientation
 It should be LEGAL for employers to fire people based on their sexual orientation

	All Respondents	Democrats	Republicans	Independents/Other
ILLEGAL	83.3%	89.5%	73.8%	84.2%
LEGAL	16.7	10.5	26.2	15.8

N = 1,999

Cases #2. *R.G. & G.R. Harris Funeral Homes Inc. v. Equal Employment Opportunity Commission*

Some people believe that it should be illegal for employees to be fired for being transgender because it is discrimination on the basis of sex. Other people think that it should be legal because it is not discrimination on the basis of sex.

What do you think?

It should be ILLEGAL for employees to be fired for being transgender.
 It should be LEGAL for employees to be fired for being transgender.

	All Respondents	Democrats	Republicans	Independents/Other
ILLEGAL	78.8%	86.2%	68.8%	79.2%
LEGAL	21.2	13.8	31.2	20.8

N = 2,000

Issue: Undocumented Immigrants

Case #3. *Department of Homeland Security v. Regents of the University of California*

Deferred Action for Childhood Arrivals (DACA) was created by President Obama to protect undocumented immigrants who have lived in the U.S. since childhood from deportation. President Trump wants the Department of Homeland Security to end DACA.

What do you think?

DACA should remain
 DACA should be ended

	All Respondents	Democrats	Republicans	Independents/Other
Remain	61.0%	85.1%	29.7%	61.2%
Ended	39.0	14.9	70.3	38.8

N = 2,000

Issue: Religious Freedom

Case #4. *Espinoza v. Montana Department of Revenue*

The state of Montana has banned students from using taxpayer-subsidized scholarships to attend religious schools. Some people think this rule is an acceptable restriction. Other people think this rule violates people’s constitutional rights.

What do you think?

States SHOULD be allowed to ban students from using taxpayer-subsidized scholarships to attend religious schools
 States SHOULD NOT be allowed to ban students from using taxpayer-subsidized scholarships to attend religious schools

	All Respondents	Democrats	Republicans	Independents/Other
Should ban	36.9%	46.4%	25.5%	36.5%
Should NOT ban	63.1	53.6	74.5	63.5

N = 1,998

Case #5. *Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania*

The Affordable Care Act requires that health insurance plans for women include coverage for contraceptives (birth control), but the Trump administration recently passed regulations that greatly expanded exceptions to this mandate to include exemptions on the basis of religious or “moral” objections. Some people think that employers should not be forced to cover contraceptives if they express either a religious or a “moral” objection. Other people think that these employers should be forced to cover contraceptives.

What do you think?

Employers SHOULD NOT be forced to cover contraceptives

Employers SHOULD be forced to cover contraceptives

	All Respondents	Democrats	Republicans	Independents/Other
Employers should NOT be forced	52.7%	33.8%	68.7%	57.7%
Employers should be forced	47.3	66.2	31.3	42.3

N = 2,000

Issue: Abortion

Case #6. *June Medical Services, LLC v. Russo*

Louisiana passed a law requiring abortion providers to be able to send patients to nearby hospitals, a practice known as “admitting privileges.” This law would mean that all abortion providers in the state except for one would be forced to close. Some people believe that Louisiana’s law violates women’s constitutional rights. Other people believe that the law does not violate women’s constitutional rights.

What do you think?

States requiring abortion providers to have admitting privileges DOES violate women’s constitutional rights

States requiring abortion providers to have admitting privileges DOES NOT violate women’s constitutional rights

	All Respondents	Democrats	Republicans	Independents/Other
Does violate women’s rights	56.9%	72.5%	39.1%	55.5%
Does NOT violate women’s rights	43.1	27.5	60.9	44.5

N = 1,999

Issue: President Trump’s Tax Returns

Case #7: *Trump v. Deutsche Bank AG and Trump v. Mazars USA, LLP*

A Congressional committee has requested records related to President Trump’s taxes and finances from his activities prior to becoming president from his accounting firm and other companies. Some people believe that a president should be able to block such companies from turning over his financial records to Congressional committees. Other people believe that the companies must comply with the Congressional committee’s request.

What do you think?

A president SHOULD be able to block turning over his financial records to Congress
A president SHOULD NOT be able to block turning over his financial records to Congress

	All Respondents	Democrats	Republicans	Independents/Other
Should be able to block	39.1%	15.3%	68.5%	39.7%
Should NOT be able to block	60.9	84.7	31.5	60.3

N = 2,000

Case #8: *Trump v. Vance*

New York state prosecutors are conducting a criminal investigation of President Trump. They have requested financial records related to President Trump’s taxes and finances from his activities prior to becoming president from his accounting firm and other companies. Some people believe that New York state prosecutors have the right to obtain a president’s tax records. Others believe that a president does not have to turn over his tax records to state prosecutors.

What do you think?

New York state prosecutors have the right to obtain a president’s tax records
A president does not have to turn over his tax records to state prosecutors

	All Respondents	Democrats	Republicans	Independents/Other
Have a right to obtain	61.3%	85.5%	27.8%	63.0%
President does not have to turn over	38.7	14.5	72.2	37.0

N = 2,000

Issue: Consumer Financial Protection Bureau

Case #9: *Seila Law, LLC v. CFPB*

In 2010, Congress established the Consumer Financial Protection Bureau (CFPB) as an independent consumer protection agency. In doing, so Congress severely limited the President’s ability to remove the agency’s director. Some people think the structure of the CFPB is appropriate. Others disagree and believe that this gave the CFPB too much independent power, since it is very difficult for the President to remove the agency’s director.

What do you think?

The structure of the CFPB is appropriate
 The CFPB has too independent power

	All Respondents	Democrats	Republicans	Independents/Other
CFPB is appropriate	56.4%	77.2%	30.2%	56.4%
CFPB too independent	43.6	22.8	69.8	43.6

N = 1,996

Issue: Electoral College

Case #10: *Chiafalo v. Washington and Colorado Department of State v. Baca*

In the U.S., the President is chosen by the Electoral College, comprised of “electors” from all 50 states and the District of Columbia. Some people think that states should be able to require Electoral College electors to vote for the person who won the majority of votes in the state and not some other person. However, some people think that electors should be able to vote for whomever they want.

What do you think?

States SHOULD be able to require their “electors” to vote for the candidate who won their state
 States SHOULD NOT be able to require their “electors” to vote for the candidate who won their state

	All Respondents	Democrats	Republicans	Independents/Other
Electors should be required	61.4%	65.2%	58.7%	60.1%
Electors should NOT be required	38.6	34.8	41.3	39.9

N = 2,000

Issue: Affordable Care Act

Case #11: *California v. Texas*

The Affordable Care Act (also known as Obamacare) requires most Americans to obtain health insurance, provides subsidies for those who cannot afford insurance, and prevents insurance companies from discriminating based on preexisting medical conditions, among other things. Some people think that the Affordable Care Act should be struck down. Other people think that the Affordable Care Act should remain law. What do you think?

The Affordable Care Act SHOULD be struck down
 The Affordable Care Act SHOULD NOT be struck down

	All Respondents	Democrats	Republicans	Independents/Other
ACA should be struck down	40.6%	15.8%	71.2%	41.1%
ACA should NOT be struck down	59.4	84.2	28.8	58.9

N = 2,000