

Despite Kagan, Public Knows Little About Supreme Court

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Now that Elena Kagan has been [confirmed](#) as Justice of the Supreme Court following several weeks of highly publicized hearings, the public remains poorly informed about the Court's role. And even what is supposedly known is contradictory. Pew Research Center's [latest](#) New IQ Quiz, which was conducted in early July, revealed that "an overwhelming proportion of Americans are familiar with Twitter ... yet the public continues to struggle in identifying political figures, foreign leaders and even knowing facts about key government policies."

For example, barely one in four of those surveyed was able to identify John Roberts as the chief justice of the Supreme Court. Pew goes on to say, "young people fare particularly poorly on political knowledge." In the survey, Roberts' name was offered as a possible correct answer, along with Thurgood Marshall, John Paul Stevens, and Harry Reid. Eight percent said Thurgood Marshall was the current Chief Justice (Marshall was appointed to the Court in 1967 and died in 1993 but never served as Chief Justice). Six percent picked Stevens, who just retired to be replaced by Kagan, but never served as Chief Justice. And 4 percent picked Harry Reid, the current Senate Majority Leader. Even with those names offered, 53 percent still said they didn't know who serves as the current Chief Justice.

In a [followup](#), Pew said the Court "is largely out of sight and out of mind." While legal scholars analyze Kagan's possible impact on the "Roberts Court," most Americans have no idea who "Roberts" is. But the public, according to Pew, has an opinion about the direction the Court is taking in its legal opinions: it is perceived to be moving to the left. In July 2007, the Court was seen as conservative by 36 percent of those surveyed — today that number is only 23 percent. And among Republicans, those saying the current Court is liberal "has nearly doubled since 2007, from 18 percent to 34 percent." In the same time period, those holding that the court is conservative has declined from 26 percent to 12 percent.

On the other hand, the [New York Times](#) considers the Roberts Court as "fundamentally changed" and now reflects Robert's conservative point of view in most cases decided by the Court. Lisa Blatt, a former Solicitor General, said: "This is a business court. Now it's the era of the corporation and the interests of business." Adam Liptak, writing for the [Times](#), said that since Roberts was confirmed in September, 2005, "the court not only moved to the right but also became the most conservative one in living memory." And with the confirmation of Elena Kagan, "There is no reason to think [she] will make a difference in the court's ideological balance." What that means is that "Chief Justice Roberts, 55, is settling in for what is likely to be a very long tenure at the head of a court that seems to be entering a period of stability ... which is likely to allow a greater role for religion in public life, permit more participation by unions and corporations in elections, and to elaborate further on the scope of the Second Amendment's right to bear arms. Abortion rights are likely to be curtailed," Liptak speculates, "as are affirmative action and protections for people accused of crimes." This trend, [according to Liptak](#), "may well threaten recent legislation overhauling financial regulations and the health care system when challenges to them reach the court."

California's Proposition 8, the Marriage Protection Act, which was passed in November, 2008, was recently overturned and is likely headed for the Supreme Court. And the Arizona "school voucher" case will probably also soon make its way onto the Court's docket. Some have held that recent decisions by the Court reflect a "conservative" trend, such as the [Heller](#) case, the [McDonald](#) case, and the [Citizens United](#) case, even though these were decided by the narrowest of margins.

Unfortunately, the role of the Supreme Court in its consideration of the limits of the Constitution was never even mentioned by Pew or the *Times*. In a recent article [here](#) "originalness" versus the concept of a "living" Constitution were discussed which shows just how close those decisions were, and how future decisions may be decided.

In his book, *"The Dirty Dozen: How Twelve Supreme Court Cases Radically Expanded Government and Eroded Freedom,"* author Robert Levy of the Cato Institute details the long and unhappy trail of abrogation of the Constitution committed by the Supreme Court over the years. For example, in [*Helvering v. Davis*](#), the Court decided that "Congress can tax and spend to promote the general welfare ... which opened the floodgates through which the redistributive state was ready to pour — taking money from some, giving it to others, without any meaningful constitutional restraints." In [*Wickard V. Filburn*](#), Congress' power to regulate interstate commerce was allowed to be extended even to activities that are not interstate, not commerce, and may even allow the forced purchase of healthcare coverage, with fines and sanctions against those who refuse to make such purchases. Private contracts were abrogated in [*Home Building & Loan Association v. Blaisdell*](#) and agencies in the "fourth" branch of government were allowed to make and enforce their own laws, even if they were "oppressive," in a Supreme Court decision, [*Whitman V. American Trucking Association*](#).

Many other outrageous and egregious usurpations that were allowed by other decisions by the High Court were outlined by Levy, who said, "We view the powers of government narrowly and the rights of individuals broadly. That, we believe, was precisely the vision of the framers."

It is that "vision of the framers" that has largely been lost on the vast majority of Americans, if Pew Research is right. That Twitter is better known than the name of the Chief Justice of the Supreme Court bodes ill for efforts to revive and restore the nation under the rules and limitations of the Constitution.

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