

## Lifetime Tenure: A Blessing or a Curse? Whether or Not to Abolish the Historical Practice.

Kylie Ruprecht

In the 18th century, President George Washington signed the Judiciary Act of 1789, which established the Supreme Court of the United States of America as the head of the federal court system (“Supreme Court of the United States”, 2023). Since its establishment, the Supreme Court has made many landmark rulings from ending school segregation in *Brown v. Board of Education*, to requiring the reading of miranda rights in *Miranda v. Arizona*, to recognition of the right to legal counsel in *Gideon v. Wainwright* (“LII Supreme Court Collection” n.d.). The decisions rendered by justices on the Supreme Court have tremendous weight and impact the lives of all Americans. For this reason, it is of the utmost importance that the Supreme Court remains a beacon of fair law, judgment, and reasoning.

Term limits for federal officials have been long debated in the United States. In the original form of the US Constitution and Articles of Confederation, no congressional term limits were formally imposed. However, term limits were still instated in order to provide stability and prevent unchecked power (Longley, 2022). Notably, term limits were again brought into the spotlight in 1951 when President Roosevelt violated the two-term precedent by running for a third presidential term (“FDR’s Third Term”, 2020). Previously, voluntary rotation of power was the status quo, and was abided by over 100 years. President Roosevelt violating the status quo prompted the public and federal officials to consider the implications that could result from unregulated term limits. In response, congress passed the 22nd amendment, stating that “presidential term limits could be enacted if presidential term limits received public support” (“FDR’s Third Term”, 2020). This is significant because it establishes that the federal government has implemented similar policies to limit the terms of government officials in the past, and therefore could do so legally again if deemed necessary.

The guiding principles of the United States government are popular sovereignty, limited government, separation of powers, checks and balances, and federalism. The principle of separation of powers is meant to spread equal influence across the executive, legislative, and judicial branches of government, and to prevent abuses of power. Supporters of lifetime term limits, or tenure, believe that it further enforces this principle by removing justices from political pressures within other branches of government, and ensures their decisions are guided by law

and judgment. For many years, the Supreme Court worked to preserve justice in the United States, and justices' lifetime tenure was never questioned. In fact, lifetime tenure is not explicitly given, but has been interpreted from language in the Constitution stating that justices "shall hold their offices during good behavior" (Wagner, 2022). Just like Presidents for centuries, justices had historically upheld precedent and retired at a natural age. The first justice, John Jay, served less than six years before retiring (Wagner, 2022). The Supreme Court also hasn't historically experienced ideological hard blocs around party lines because they were shielded from political pressures. However, the present day political climate has shifted dramatically.

Today's political climate has changed drastically from when the Supreme Court was established. Americans who state they hold consistently liberal or conservative views have doubled in the last twenty years; 27% of democrats and 36% of republicans view the other party as a threat to the country (Geiger, 2021). With party lines so strong among politicians and Americans alike, filling seats on the Supreme Court has become more about party alignment than anything else. American Presidents are more likely to nominate young justices who can serve for decades to come, and justices are retiring later than ever, breaking centuries of precedent. In the last three decades, only Justice Souter has retired in less than 20 years, recently retired Justice Breyer served 28 years, and current Justice Thomas has served over 30 years, with this trend expected to continue (Wagner, 2022). Vacancies on the supreme court have become a key part of Presidential elections as well, as seen with both Clinton and Trump emphasizing their ability to appoint a young justice within their party who could rule on controversial topics for years to come in the 2016 election. This has created a system in which party line politics within other branches of government overshadow the founding principles of separation of powers, law, and judgment within the Supreme Court. Important to note is that the American Public has been privy to the current dynamics of the Supreme Court, with the topic being debated hotly in social spheres. In fact, the majority of Americans state that they favor term limits or a mandatory retirement age for justices (Gresko, 2022). The changing system and breaking of political precedent provides grounds for re-examination of the Supreme Court as an institution. As has been done previously, the government, with public support, can and should implement new strategies to preserve the separation of powers and founding principles of the Supreme Court.

So, considering the information provided above, is it time for us to abolish lifetime tenure for Supreme Court justices? Although the government has the grounds to reform, the specifics of

that reform should be subject to careful analysis. As determined previously, it is the stark division of party line politics that is seeping into nominations of justices and shaking the foundation in which the Supreme Court was built on. Revoking lifetime tenure could avoid appointments of young justices and prolonged retirement ages. However, justices would still be subject to influences from party divisions. President's would still appoint justices based on party alignment, ideological blocks would remain, and they would still receive intense outside pressure. In this case, it is clear that, while the court must be reformed, removing lifetime tenure will not bring about the changes necessary to restore ideals of experienced judges, separate government, law, and order.

At this point, the government should instead focus on reforming the appointment process of new justices. Each justice should be appointed by a distinct, non-partisan body of officials selected with public support. A minimum age, perhaps 50 or 60, should be imposed to encourage experienced justices, not just young justices who can serve for many years. This will also encourage the end of high retirement ages due to the absence of party line politics, and outside pressures and ideological blocks will be lessened. While there will never be a perfect system completely free from outside pressures, the target should be to promote appointments of bi or non-partisan, experienced judges to the court who will uphold historical precedents and not be swayed by outside opinions. Abolishing lifetime tenure for US Supreme Court justices should not be considered under the current political climate without first implementing other changes.

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