

When the Supreme Court loses Americans' loyalty, chaos—even violence—can follow

November 1 2022, by Joseph Daniel Ura and Matthew Hall



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The Supreme Court's [historically low public standing](#) has prompted a national conversation about the court's legitimacy. It's even drawn rare [public comment from three sitting Supreme Court justices](#). What's referred to by experts as the problem of "judicial legitimacy" may seem

abstract, but the court's faltering public support is about more than popularity.

Eroding [legitimacy](#) means that [government officials](#) and [ordinary people](#) become increasingly unlikely to accept public policies with which they disagree. And Americans need only look to the relatively recent past to understand the stakes of the court's growing legitimacy problem.

Cost 'paid in blood'

The Supreme Court's 1954 decision in [Brown v. Board of Education](#) shined a light on many white Americans' tenuous loyalty to the authority of the federal judiciary.

In Brown, the court unanimously held that [racial segregation](#) in public education violates the [equal protection clause of the 14th Amendment](#). The justices were abundantly aware that their decision would evoke strong emotions. So Chief Justice Earl Warren worked tirelessly to ensure that the court [issued a unanimous, short and readable opinion](#) designed to [calm the anticipated popular opposition](#).

Warren's efforts were in vain. Rather than recognizing the court's authoritative interpretation of the Constitution, many white Americans participated in an extended, violent campaign of resistance to the desegregation ruling.

The [integration of the University of Mississippi in 1962](#) provides a pointed example of this resistance.

The Supreme Court had backed a lower federal court that ordered the university to admit [James Meredith](#), a Black Air Force veteran. But Mississippi Gov. Ross Barnett led a wide-ranging effort to stop Meredith from enrolling at Ole Miss, including deploying state and local police to

prevent Meredith from entering campus.

[On Sunday, Sept. 30, 1962](#), Meredith nevertheless arrived on the university's campus, guarded by dozens of federal marshals, to register and begin classes the next day. A crowd of 2,000 to 3,000 people gathered on campus and broke into a riot. Meredith and the marshals were attacked with Molotov cocktails and gunfire. The marshals fired tear gas in return.

In response, [President John F. Kennedy invoked the Insurrection Act](#) of 1807 and ordered the U.S. Army onto campus to restore order and protect Meredith. Overnight, thousands of troops arrived, battling rioters.

The violence finally ended after 15 hours, leaving two civilians dead—both killed by rioters—and dozens of wounded marshals and soldiers in addition to hundreds of injuries among the insurgent mob.

The next day, [Oct. 1, Meredith enrolled in the university](#) and attended his first class, but thousands of troops remained in Mississippi for months afterward to preserve order.

What some call "the [Battle of Oxford](#)" was fueled by white racism and segregation, but it played out against the backdrop of weak judicial legitimacy. Federal courts did not command enough respect among state officials or ordinary white Mississippians to protect the constitutional rights of Black Mississippians. Neither Gov. Barnett nor the thousands of Oxford rioters were willing to follow the court order for Meredith to enroll at the university.

In the end, the Constitution and the [federal courts](#) prevailed only because Kennedy backed them with the Army. But the cost of weak judicial legitimacy was paid in blood.

Legitimacy leads to acceptance

In contrast, when people believe in the legitimacy of their governing institutions, they are more likely to accept, respect and abide by the rules the government—including the courts—ask them to live under, even when the stakes are high and the consequences are far-reaching.

For example, two decades ago, the Supreme Court resolved a disputed presidential election in [Bush v. Gore](#), centered on the counting of ballots in Florida. This time, the court was deeply divided along ideological lines, and its long, complicated and fragmented opinion [was based on questionable legal reasoning](#).

But in 2000, the court enjoyed more robust [legitimacy among the public](#) than it does today. As a consequence, Florida officials ceased recounting disputed ballots. [Vice President Al Gore conceded](#) the election to Texas Gov. George W. Bush, [specifically accepting the Supreme Court's pivotal ruling](#).

[No Democratic senator](#) challenged the validity of Florida's disputed Electoral College votes for Bush. [Congress certified the Electoral College's vote](#), and [Bush was inaugurated](#).

Democrats were surely disappointed, and [some protested](#). But the court was viewed as sufficiently legitimate to produce enough acceptance by enough people to ensure a peaceful transition of power. There was no violent riot; there was no open resistance.

Indeed, on the very night that Gore conceded, the chants of his supporters gathered outside tacitly accepted the outcome: "[Gore in four!](#)"—as if to say, "We'll get you next time, because we believe there will be a next time."

Risks ahead

But what happens when institutions fail to retain citizens' loyalty?

[The Jan. 6, 2021, insurrection](#) showcased the consequences of broken legitimacy. The rioters who stormed the Capitol had lost faith in systems that undergird American democracy: counting presidential votes in the states, tallying Electoral College ballots and [settling disputes over election law in the courts](#).

The rioters may well have believed their country was being stolen, even if such beliefs were baseless. So, they rebelled in the face of a result they didn't like.

This threat is far from gone. In addition to numerous important questions about individual rights and the scope of government power, the Supreme Court may soon be asked to resolve disputes over the administration of elections and the power to certify election winners—particularly [the authority to designate a slate of presidential electors](#).

Nothing is certain in politics, but the specter of constitutional crisis looms over the United States. It's dangerously unclear whether the Supreme Court retains enough legitimacy to authoritatively resolve such disputes. If it doesn't, the [court's](#) abstract legitimacy problem could once again end with blood in the streets.

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Provided by The Conversation

Citation: When the Supreme Court loses Americans' loyalty, chaos—even violence—can follow (2022, November 1) retrieved 25 April 2024 from <https://phys.org/news/2022-11-supreme-court-americans-loyalty-chaoseven.html>

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