

United States: Supreme Court Condemns Planet and Human Life

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On June 30, the Supreme Court in a 6-3 decision ruled against the Environmental Protection Agency (EPA) ability to regulate greenhouse gas emissions, a move that signals a major setback in the fight against the climate crisis.

This ruling puts the end to President Joe Biden's promise to reduce such emissions by fifty percent by 2030.

It makes the United States an outlier in the world's fight to save the planet. Not only will working people suffer here, but the planet also faces a more rapid catastrophe. The United States remains the world's largest climate polluter. The per capita CO₂ emissions from the United States is twice that of China (15.52 versus 7.38 tons).

In the opinion by Chief Justice John Roberts, the rightist justices said that Congress had not authorized a 2015 rule adopted by the EPA aimed at shifting energy use from coal to natural gas and from fossil fuels to renewables.

The ruling sidestepped the Chevron doctrine. That doctrine says the courts must defer to government agencies' reasonable interpretation of laws passed by Congress. Under Chevron rules, the Court could have said that, since Congress's grant of statutory authority to the EPA was ambiguous, it would allow the Barack Obama-era EPA regulation to stand.

Instead, the hard right Republican court articulated and embraced for the first time what is in effect a new doctrine of law, which it called the "major questions" doctrine.

Under that new doctrine, the Court holds that when an agency finds what the Court considers to be a new power in a "vague" grant of statutory authority from Congress, the Court must "hesitate before concluding" that the grant of power in fact exists.

This will have far reaching effects.

The EPA was formed on December 2, 1970, with the clear mandate to protect the environment. How much it did was dependent on the political leadership at the White House and Congress. Nowhere was it said that its decisions on regulations had to be approved by the courts and politicians.

Yet the theory that Congress may give agencies the authority to interpret ambiguous statutes is the orthodox understanding of why the Chevron doctrine is consistent with the Constitution. In fact, long ago that was articulated by conservative Justice Antonin Scalia.

In dissent, Justice Elena Kagan, joined by the Court's two other liberals, spoke plainly. She insisted that the major-questions doctrine was a new invention of the Court, despite Roberts's characteristic claim to have found it in precedent.

She concluded her opinion with a devastating rebuke: "The Court appoints itself — instead of Congress or the expert agency — the decision maker on climate policy. I cannot think of many things

more frightening.”

Biden himself has promoted fossil fuel development and burning, allowing more fracking for natural gas and more drilling for oil. But the Court has now prevented Biden or another president from any hope of achieving his promise to reach carbon neutrality by 2050.

Because of its own massive carbon emissions and the negative example this will set for other countries, the world with this ruling will go well beyond the increase of 1.5 degrees C. warming over pre-industrial levels, triggering climate catastrophe either step by step or a sudden “tripping point.”

It is now certain that the United States will not achieve carbon neutrality by 2050, unless the present Court, with Justices on the Court for life, is forcibly overthrown and a new one established that could reverse this ruling. The Democrats are against doing that.

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