

# The Supreme Court vs. the Experts



The U.S. Supreme Court in Washington on Aug. 14, 2024. Madalina Vasiliu/The Epoch Times



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## *Commentary*

When the transgender issue presented itself decades ago, most people felt a sense of politeness and deference to the preferences of another person, however surprising or odd. It all seemed rather harmless, the habits of eccentrics for whom Western society offers remarkable tolerance.

Sure, people might have felt private revulsion and even disgust, viewing this as a strange form of playing dress-up—maybe like Corporal Max Klinger on *M\*A\*S\*H*—but publicly hardly anyone would have defended cruelty or invidious discrimination.

All of this is true as regards adults. But of course the movement did not stop there. It sought to force everyone to go along with affirmative approval and

full credulity. Everyone was expected to suppress all doubts. When it became a quasi-crime to “misgender” someone, we really reached the point of absurdity.

The application of the civil-right paradigm to the denial of core biological realities, ones that relate directly to the survival of the species, became too much.

Then the movement went straight for the kids and young adults. This strongly suggested to many, including me, that there was more roiling beneath the surface. Our tolerance was being abused.

Beneath the cross-dressing exterior, there was an agenda, a political one, maybe worse, likely to be forced on people against all tradition and biological evidence of the existence of embedded differences between the sexes that extend far beyond genitalia. (This speaks to the weirdest feature of the trans ideology: its single-minded focus on gender cosmetics to the exclusion of every other pervasive difference.)

Here is where the debate became contentious. It has forced people to go into corners and come out fighting. It’s not a fight that any nonpolitical person particularly wanted but when the trans movement started denying biology and forcing men into women’s sports, even attempting to blot out the intrinsic core of such things as women and men, it really became too much. You have to draw the line.

Thus have states weighed in with legislation.

Tennessee passed a law against “gender-affirming care” for children, including pharmaceuticals and surgeries, following the crazed fashion for pretending to change the sexual identity of underage kids. The law is sadly necessary given the way things are unfolding in our time but some people objected. They took the case to the courts, claiming that transgender people of any age deserve special protection under the 14th Amendment.

It’s hard to imagine what kind of world would have been born had they prevailed. Kids could have been medicated in unimaginable ways and contrary to parents’ wishes, all blessed by the Constitution and forced on the voters of every state.

Fortunately, the plaintiffs did not prevail.

In the important decision *United States v. Skrametti*, the majority opinion is a brilliant defense of common sense and Constitutional law. The dissenting opinion by the three usual suspects on the court (Sonia Sotomayor, Elena Kagan, and Ketanji Brown Jackson) included preposterous citations of the American Academy of Pediatrics, American Medical Association, American Psychiatric Association, American Psychological Association, and American Academy of Child Adolescent Psychiatry, all of which are trying to normalize

the unscientific and preposterous idea that a person can change one's sex with hormones and operations.

Ah yes, the experts speak again! We've been there and done that. The experts told us that climate change is an existential threat. They told us that we all had to hide under our sofas from a virus and let the peasants deliver groceries to us. And now the experts are telling us that the best way to deal with adolescent gender dysphoria is with drugs and surgery.

Just a few days ago, I heard an interview with a famous "expert" on vaccines repeatedly refer to "pregnant people" as if getting pregnant had nothing to do with biological sex. This is a guy who seeks the mantle of science in creating and recommending shots for the kids!

Sadly, the courts have been overly deferential to the experts inhabiting the realm of science, as if science has a firm, fixed, and universal point of view on all matters. That is emphatically untrue. People can squawk about "settled scientific consensus" all they want but science is a process of discovery, always subject to falsification and hence the necessity of debate. Law deals with something different: settled principles on how we must treat each other and what the state should do about it.

This is where Justice Clarence Thomas offers a much-needed corrective in his opinion concurring with the majority.

"There are several problems with appealing and deferring to the authority of the expert class. First, so-called experts have no license to countermand the 'wisdom, fairness, or logic of legislative choices.'

"Second, contrary to the representations of the United States and the private plaintiffs, there is no medical consensus on how best to treat gender dysphoria in children.

"Third, notwithstanding the alleged experts' view that young children can provide informed consent to irreversible sex-transition treatments, whether such consent is possible is a question of medical ethics that States must decide for themselves.

"Fourth, there are particularly good reasons to question the expert class here, as recent revelations suggest that leading voices in this area have relied on questionable evidence, and have allowed ideology to influence their medical guidance.

"Taken together, this case serves as a useful reminder that the American people and their representatives are entitled to disagree with those who hold themselves out as experts, and that courts may not 'sit as a super-legislature to weigh the wisdom of legislation.' By correctly concluding that SBI warrants the 'paradigm of judicial restraint,' the Court reserves to the people of Tennessee the right to decide for themselves. The views of self-proclaimed

experts do not ‘shed light on the meaning of the Constitution.’ Thus, whether ‘major medical organizations’ agree with the result of Tennessee’s democratic process is irrelevant.”

Finally: “This case carries a simple lesson: In politically contentious debates over matters shrouded in scientific uncertainty, courts should not assume that self-described experts are correct.”

There we go: The opinion of major medical organizations in this case is irrelevant.

This opinion is a breath of fresh air, and one can only hope that such thinking pervades all of American jurisprudence. It will solve so much. We could get away from the intimidation of the judiciary by science, real or fake. Vaccine mandates, for example, rely entirely on the pushes of compromised medical experts who work directly with industry. That is no basis of law.

It’s the same in the area of climate change or transgender issues. No expert should be permitted to override the reality of biological sex.

This decision comes as a major relief to many Americans who have had it up to here with the claims of this movement, which have tested the patience, liberality, and tolerance of the American people. At some point, it all became too much. When men in costume are beating up women in boxing or winning top awards in track and field and clobbering women in volleyball, or crashing the restrooms in public spaces, a civilized people has to speak up.

Fortunately in this case, the law has been decided correctly. There will be no abolition of eccentricity and some people will forever be confused about issues of identity and so on. This is no argument for cruelty and invidious attacks. What we need is simple common sense and deference to reality. It’s the least we can ask from the law governing a free and civilized people.

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