Justices Limit Power of Federal Agencies, Imperiling an Array of Regulations

A foundational 1984 decision had required courts to defer to agencies' reasonable interpretations of ambiguous statutes, underpinning regulations on health care, safety and the environment.

By Adam Liptak
Reporting from Washington

June 28, 2024

The Supreme Court on Friday reduced the power of executive agencies by sweeping aside a longstanding legal precedent, endangering countless regulations and transferring power from the executive branch to Congress and the courts.

The precedent, Chevron v. Natural Resources Defense Council, one of the most cited in American law, requires courts to defer to agencies' reasonable interpretations of ambiguous statutes. There have been 70 Supreme Court decisions relying on Chevron, along with 17,000 in the lower courts.

The decision is all but certain to prompt challenges to the actions of an array of federal agencies, including those regulating the environment, health care and consumer safety.

The vote was 6 to 3, dividing along ideological lines.

"Chevron is overruled," Chief Justice John G. Roberts Jr. wrote for the majority. "Courts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority."

In dissent, Justice Elena Kagan said the ruling amounted to a judicial power grab. "A rule of judicial humility," she wrote, "gives way to a rule of judicial hubris."

Justice Kagan summarized her dissent from the bench, a rare move and a sign of profound disagreement. "Courts, in particular this court, will now play a commanding role" in setting national policy, she said.

The court has overturned major precedents in each of the last three terms: on abortion in 2022, on affirmative action in 2023 and now on the power of administrative agencies.

Chief Justice Roberts said Chevron must be overruled because it "has proved to be fundamentally misguided" and is unworkable. "All that remains of Chevron," he wrote, "is

a decaying husk with bold pretensions."

Justice Kagan responded that Chevron was, until Friday, vibrant and valuable. "It has become part of the warp and woof of modern government," she wrote, "supporting regulatory efforts of all kinds — to name a few, keeping air and water clean, food and drugs safe, and financial markets honest."

The decision was the latest in a sustained series of legal attacks on what its critics call the administrative state. On Thursday, for instance, the court rejected the Securities and Exchange Commission's use of administrative tribunals to combat securities fraud.

That decision put at risk the ability of other regulatory agencies to bring enforcement actions in such tribunals. It was, Justice Kagan wrote on Friday, "yet another example of the court's resolve to roll back agency authority, despite congressional direction to the contrary."

The chief justice wrote that the retroactive impact of Friday's decision will be limited, saying that regulations upheld by courts under Chevron were not subject to immediate challenge for that reason alone.

Justice Kagan, quoting an earlier opinion, disagreed. "The majority's decision today will cause a massive shock to the legal system, 'casting doubt on many settled constructions' of statutes and threatening the interests of many parties who have relied on them for years."

For one thing, she wrote, "some agency interpretations never challenged under Chevron now will be."

For another, she discounted the chief justice's assurance that earlier decisions will generally not be subject to challenge. "The majority is sanguine; I am not so much," she wrote. "Courts motivated to overrule an old Chevron-based decision can always come up with something to label a 'special justification'" to overcome the generally required respect for precedent.

In general, she wrote, "it is impossible to pretend that today's decision is a one-off, in either its treatment of agencies or its treatment of precedent."

Adam Liptak
Supreme Court reporter

"I try to make the Supreme Court accessible to readers. I strive to distill and translate complex legal materials into accessible prose, while presenting fairly the

arguments of both sides and remaining alert to the political context and practical consequences of the court's work."

Learn about how Adam Liptak approaches covering the court.

Justices Sonia Sotomayor and Ketanji Brown Jackson joined Justice Kagan's dissent.

The conservative legal movement and business groups have long objected to the Chevron ruling, partly based on a general hostility to government regulation and partly based on the belief, grounded in the separation of powers, that agencies should have only the power that Congress has explicitly given them.

Supporters of the doctrine say it allows specialized agencies to fill gaps in ambiguous statutes to establish uniform rules in their areas of expertise, a practice they say was contemplated by Congress.

Justice Kagan echoed that view. "Some interpretive issues arising in the regulatory context involve scientific or technical subject matter," she wrote. "Agencies have expertise in those areas; courts do not. Some demand a detailed understanding of complex and interdependent regulatory programs. Agencies know those programs inside-out; again, courts do not."

Its opponents counter that it is the role of courts, not executive branch officials, to determine the meanings of statutes. They also say agencies' interpretations can change with new administrations and put a thumb on the scale in favor of the government in lawsuits even when it is a party to the case.

Chief Justice Roberts said the basic point was that "agencies have no special competence in resolving statutory ambiguities."

"Courts do," he wrote. Justices Clarence Thomas, Samuel A. Alito Jr., Neil M. Gorsuch, Brett M. Kavanaugh and Amy Coney Barrett joined the majority opinion.

In overruling Chevron, the court returned the nation to the world that existed before it was decided in 1984. But the two sides were in sharp disagreement over what that world looked like and how courts had treated the work of the many administrative agencies created during the New Deal.

Chief Justice Roberts wrote that the Supreme Court had had the last word.

"As new agencies with new powers proliferated," he wrote, "the court continued to adhere to the traditional understanding that questions of law were for courts to decide,

exercising independent judgment."

Justice Kagan took the opposite view. As New Deal programs came into their own, she wrote, "courts became ever more deferential to agencies."

The court decided two almost identical cases, Loper Bright Enterprises v. Raimondo, No. 22-451, and Relentless v. Department of Commerce, No. 22-1219. Justice Jackson was recused from the first case because she had participated in it as a federal appeals court judge.

Both cases involved a 1976 federal law that requires herring boats to carry federal observers to collect data used to prevent overfishing. Under a 2020 regulation interpreting the law, owners of the boats were required not only to transport the observers but also to pay $700 a day for their oversight.

Fishermen in New Jersey and Rhode Island sued, saying the 1976 law did not authorize the relevant agency, the National Marine Fisheries Service, to impose the fee.

Two appeals courts — one in Washington, the other in Boston — ruled that the deference called for by the Chevron decision required a ruling for the government. The United States Court of Appeals for the District of Columbia Circuit, in Washington, ruled that the agency's interpretation of the 1976 law "to allow industry-funded monitoring was reasonable." The First Circuit, in Boston, said that "at the very least" the agency's interpretation of the 1976 law was "certainly reasonable."

The fishermen were represented by Cause of Action Institute, which says its mission is "to limit the power of the administrative state," and the New Civil Liberties Alliance, which says it aims "to protect constitutional freedoms from violations from the administrative state." Both groups have financial ties to the network of foundations and advocacy organizations funded by Charles Koch, a billionaire who has long supported conservative and libertarian causes.

Forty years ago, when Chevron was decided by a unanimous but short-handed six-member Supreme Court, with three justices recused, it was generally viewed as a victory for conservatives. In response to a challenge from environmental groups, the justices sustained a Reagan-era interpretation of the Clean Air Act that loosened regulation of emissions, saying the Environmental Protection Agency's reading of the statute was "a reasonable construction" that was "entitled to deference."

Chief Justice Roberts noted that the Chevron doctrine has been refined over the years. It has also been, he said, supplemented by the "major questions" doctrine, which says that Congress must be particularly clear when it authorized agencies to interpret laws on

significant economic and political matters.

Justice Kagan wrote that there was a theme in the court's work in this area.

"The majority disdains restraint," she wrote, "and grasps for power."

Linda Qiu contributed reporting.

Adam Liptak covers the Supreme Court and writes Sidebar, a column on legal developments. A graduate of Yale Law School, he practiced law for 14 years before joining The Times in 2002. More about Adam Liptak

---

A version of this article appears in print on , Section A, Page 1 of the New York edition with the headline: Justices Curb Federal Agencies' Regulatory Clout