

JUSTICE KENNEDY AND THE CHANGING ROBERTS COURT

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- I. The Swing Vote:
 - A. **Justice Kennedy and the Roberts Court:** Is it a Court of One?
 - B. **Justice Kennedy's Split Personality**
- II. Cases to the Right:
 - A. **Religious Symbols on Public Property:** County of Allegheny v. ACLU, 492 U.S. 573 (1989) (Kennedy, J., concurring and dissenting)
 - B. **Congress' Powers under Section 5:** City of Boerne v. Flores, 521 U.S. 507 (1997)
 - C. **State Sovereign Immunity:** Alden v. Maine, 527 U.S. 706 (1999)
 - D. **Affirmative Action in University Admissions:** Grutter v. Bollinger, 539 U.S. 306 (2003) (Kennedy, J., dissenting)
 - E. **Partial Birth Abortion:** Gonzales v. Carhart, 127 S.Ct. 1610 (2007)
- III. Cases to the Left:
 - A. **Flag Burning:** Texas v. Johnson, 491 U.S. 397 (1989) (Kennedy, J., concurring)
 - B. **Prayer at Graduation Ceremonies:** Lee v. Wiseman, 505 U.S. 577 (1992)
 - C. **Term Limits:** U.S. Term Limits Inc., v. Thornton, 514 U.S. 779 (1995) (Kennedy, J., concurring)
 - D. **Gay Rights:** Romer v. Evans, 517 U.S. 620 (1996)
 - E. **Regulation of Sexually Explicit Speech:** United States v. Playboy Entertainment Group, Inc., 529 U.S. 803 (2000)
 - F. **Gay Rights:** Lawrence v. Texas, 539 U.S. 558 (2003)
 - G. **Death for Juveniles:** Roper v. Simmons 543 U.S. 551 (2005)

H. **Taking of Private Property:** Kelo v. City of New London, 545 U.S. 469 (2005) (Kennedy J., concurring)

IV. Justice Kennedy's Use of Non-Traditional Constitutional Law Sources:

A. **Foreign Law**

B. **Social Science Data**

V. The Future of Constitutional Law in the Roberts (Kennedy) Court:

A. **Affirmative Action**

B. **Abortion**

C. **Terrorism/National Security**

D. **Guns**

E. **Gay Marriage**