

Power to the people?

How *Dobbs* failed to deliver on democratic representation

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Abstract

The Supreme Court's *Dobbs* decision claimed to enhance democratic representation by returning abortion policy-making to the states and the people. Previous scholarship shows that state policy making is generally responsive to public opinion, but to what extent is this true when it comes to abortion policy in the wake of the *Dobbs* decision? Using data from the 2024 Cooperative Election Study (CES), we examine the relationship between public preferences for gestational limits on abortion and actual state policies. The CES asked respondents to specify the week of pregnancy after which abortion should be restricted, allowing for a granular measurement of abortion policy preferences that can be compared to each state's actual policy. Public opinion consistently converges around a 12 to 20-week cutoff, yet actual state policies are much more extreme, ranging from total bans to viability thresholds or even no regulations. Abortion policy is generally not congruent with state opinion and has become even less reflective of public opinion post-*Dobbs*. In fact, by November 2024, seventeen states changed their policies to be farther from their public's preferences following the decision, while only ten states moved policy closer to their public's position. These findings suggest that factors other than public opinion drive policy extremism on this issue, as most Americans favor moderate restrictions rather than these extreme ones. Our study quantifies the disconnect between state abortion policies and public preferences, raising questions about state-level democratic representation and demonstrating that *Dobbs* has failed to make state abortion policies more representative.

1 Introduction

The landscape of abortion policy in the United States underwent a massive shift on June 24, 2022, when the Supreme Court’s *Dobbs v. Jackson Women’s Health Organization* decision eliminated the federal constitutional right to abortion (Supreme Court of the United States 2022). After nearly fifty years of protection under *Roe v. Wade* (Supreme Court of the United States 1973), the Court’s ruling returned abortion regulation entirely to individual states, fundamentally restructuring the environment of reproductive rights in America. Justice Alito’s majority opinion argued that abortion was not a fundamental constitutional right and that such deeply controversial issues should be resolved at the state level (Supreme Court of the United States 2022). Proponents of the decision have argued that state legislatures will now be free to craft policies that more accurately reflect the values and preferences of their constituents (von Spakovsky 2022). The promise was simple: by returning the issue to the states, democratic representation would be improved.

The *Dobbs* decision’s promise of enhanced democratic representation, however, rests on assumptions about state-level policymaking that existing scholarship calls into question. Research on state-level policy responsiveness demonstrates that while public preferences can influence legislative outcomes, many factors mediate this connection. A comprehensive study of policy dynamics across American states found that public opinion predicts policy changes, but these shifts are typically gradual, taking decades to fully manifest (Caughey and Warshaw 2018). Although policy congruence is more likely to occur on high-salience issues, state policies are often more extreme and/or more conservative than the state publics desire (Lax and Phillips 2009).

In this paper, we confront the *Dobbs* decision’s claim that removing federal restrictions will allow abortion policy to more closely align with public opinion. Using data from the 2024 Cooperative Election Study (CES), we provide a granular analysis of abortion policy preferences nationwide by asking respondents to specify precise gestational limit preferences, moving beyond simple pro-choice/pro-life binaries. We find that while public opinion across the nation is moderate – typically favoring restrictions only after 12 - 20 weeks – state policies have become less representative of this opinion and more extreme. By November 2024, seventeen states had modified their policies to move further away from their constituents’ preferences since June 2022, while only ten states had adjusted their policies in a way that better reflects public sentiment. The trend toward less representative policies is most pronounced in states with trigger laws that took effect after the *Dobbs* decision. This disconnect raises fundamental questions about access to abortion and democratic representation in an era of intense political polarization.

2 Policy representation and extremism in the states

Political science research consistently documents the complex relationship between public opinion and state-level policy formation (Caughey and Warshaw 2018; Weber and Shaffer 1972; Pacheco 2013). Scholars distinguish between policy responsiveness (how policies change in response to shifting public opinion) and policy congruence (how closely policies match current public preferences). While the “large effects” perspective argues for strong opinion-policy connections and the “small effects” view suggests limited public influence due to elite manipulation, a more nuanced “contingent view” recognizes that responsiveness varies based on contextual factors such as issue salience and institutional structures (Manza and Cook 2002).

However, even when responsiveness exists, significant congruence gaps can persist due to the systematic extremism of elected officials and political activists. Bafumi and Herron (2010) demonstrate that members of Congress are substantially more extreme than their constituents, creating what they term “leapfrog representation” – when one partisan extremist is replaced by an opposing extremist, leaving moderate voters perpetually underrepresented. Ahler and Broockman (2018) find that citizens often prefer ideologically polarized politicians over moderate ones when those polarized politicians match their views on specific issues, with 66.9% choosing the more extreme candidate in their experiments.

Aside from the tendency of voters to elect polarized politicians to office, elected officials tend to misperceive their constituents’ views on issues. State legislators consistently overestimate how conservative their constituents are, with Republican legislators overestimating conservatism on issues by more than 20 percentage points on average (Broockman and Skovron 2018). This misperception stems partly from asymmetric political participation: conservative citizens contact their representatives more frequently, especially Republican representatives, creating information environments that skew politicians’ understanding of public opinion. For abortion policy, this means that legislators often believe that their constituents support far more restrictive policies than they actually do, helping to explain why pre-*Dobbs* restrictions typically moved in a more conservative direction despite stable public support for abortion rights (Camobreco and Barnello 2008).

The implications for state-level abortion policy are clear: even if state legislatures respond to public opinion directionally (increasing responsiveness), the inherent extremism of legislators means policies will overshoot public preferences in both directions (decreasing congruence). Democratic-controlled states may implement policies more permissive than their constituents prefer, while Republican-controlled states may impose restrictions beyond what their citizens support.

2.1 Representation on abortion policy before *Dobbs*

Research on abortion policy before *Dobbs* reveals a complex relationship between public preferences and state regulations. Despite federal protection under *Roe v. Wade*, states maintained considerable regulatory authority over abortion access. Although some studies found that abortion restrictions were correlated with state-level opinion, others lament that significant disparities existed between public preferences and actual policies (Smith, Tolbert and Keller 2020; Pew Research Center 2022). Most Americans support legal abortion with moderate restrictions, favoring access in the first and second trimesters with increasing limitations as pregnancy progresses (Pew Research Center 2022). However, state policies gravitated toward extremes – approximately 30% of Americans lived in highly permissive states and another substantial portion under highly restrictive regimes. Only about 8% resided in states with policies reflecting the moderate middle ground that characterized typical public opinion (Smith, Tolbert and Keller 2020; Scoglio and Nayak 2023).

Structural factors significantly shaped this policy-opinion mismatch. Gerrymandering systematically distorted representation, with pro-Republican gerrymanders making states more likely to impose pre-viability abortion bans, even when controlling for public opinion (Niven 2023). Meanwhile, pro-life organizations effectively advanced restrictions by strategically framing policies to address public ambivalence about specific aspects of abortion access. This strategic approach created an environment where policies typically moved in a more restrictive direction, even as public support for abortion rights remained stable or slightly shifted in a more permissive direction over the decades since *Roe* (Camobreco and Barnello 2008).

Institutional features also influenced pre-*Dobbs* policy landscapes. States with direct democracy mechanisms showed somewhat stronger policy-preference alignment, though implementation barriers often weakened this effect (Holquist 2014). Simultaneously, national factors – Supreme Court decisions, presidential elections, and interest group activities – substantially shaped state-level policy development, demonstrating how federalism can create complex interactions between national and local political forces (Roh and Haider-Markel 2009). These pre-*Dobbs* patterns of misalignment between abortion policies and public preferences – despite existing constitutional protections – set the stage for our examination of whether state control has improved or worsened democratic representation in the post-*Dobbs* era.

3 Methods

We analyze data from the Cooperative Election Study (CES), a large online representative survey of 60,000 American adults conducted by YouGov during the 2024 election cycle. The CES provides a nationally representative sample with sufficient respondents in most states for reliable state-level estimates. State-level

estimates are calculated using the standard CES weights that ensure representativeness within each state and are further adjusted to account for state-level election outcomes.

To capture abortion policy preferences with precision, we utilize a unique CES survey question that asks respondents: “Different states are debating when, if at all, abortion should be legal during a woman’s pregnancy. A normal pregnancy could go up to as many as 40 weeks. Until what point in a pregnancy do you think a woman should be legally allowed to obtain an abortion?” Respondents indicate their preference using a sliding scale from 0 to 40 weeks, allowing for more nuanced measurement than traditional binary questions about abortion attitudes.

Figure 1 shows descriptive statistics related to this question. Panel (a) shows the distribution of responses among all Americans. There are several noteworthy reference points where responses cluster, including 9% of Americans who said 0 weeks, 6% who identified 8 weeks, 11% who said 11 weeks, 8% who cited 20 weeks, and 12% who indicated that they wanted no restrictions by selecting 40 weeks. While the national mean response is 15.8 weeks, panel (a) reveals that there is considerable variance around that mean.

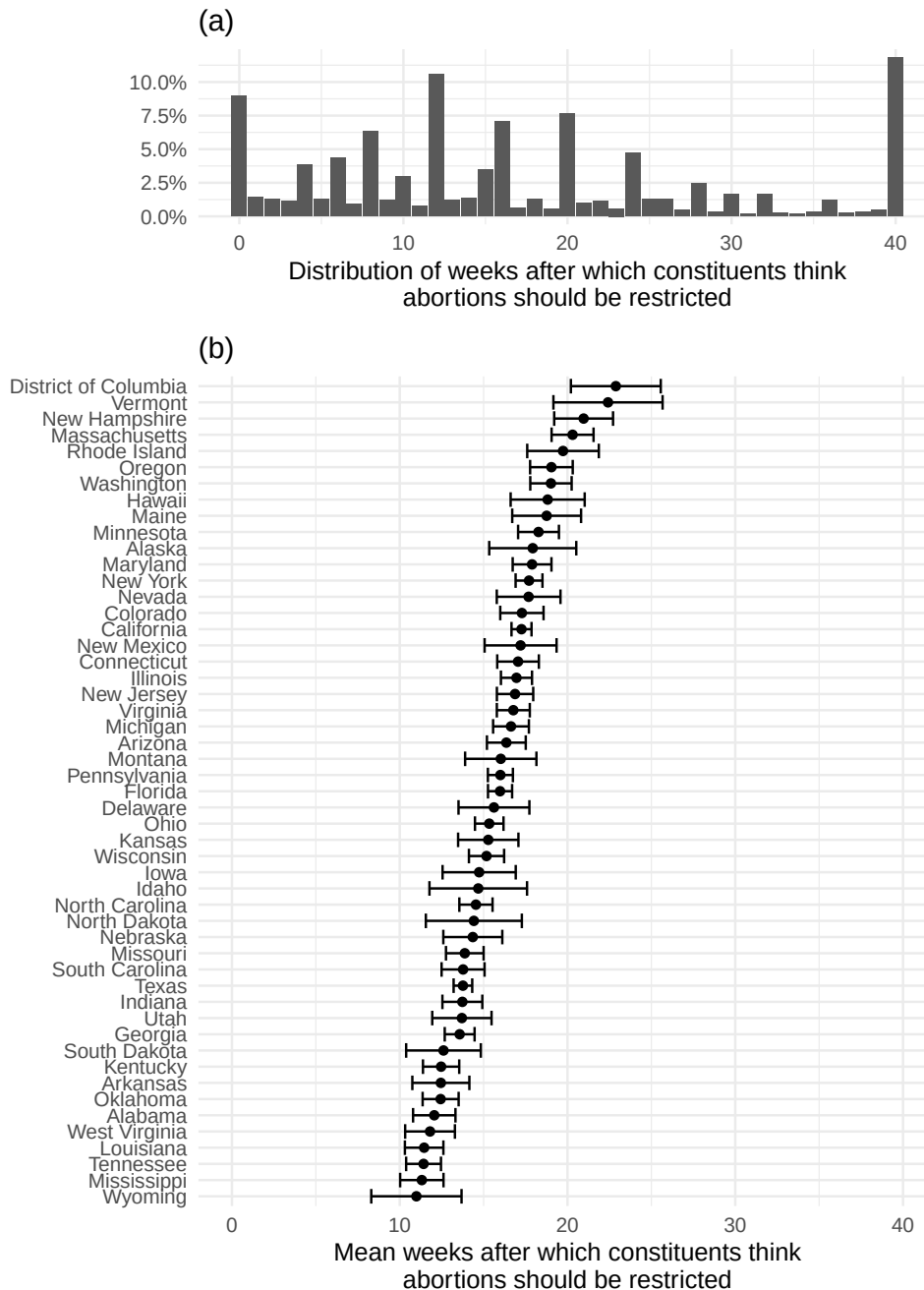
Panel (b) of Figure 1 plots the average number of weeks identified by residents of each state along with 95% confidence intervals for those means. The most permissive states (Massachusetts, New Hampshire, Vermont, and DC) indicated that, on average, they were willing to allow restrictions on abortions only after 20 weeks. The most restrictive states (Wyoming, Mississippi, Tennessee, Louisiana, and West Virginia), by contrast, indicated an average number of weeks slightly below 12. What this shows, however, is that once we focus on aggregated mean opinion, the least and most restrictive states are separated by about 10 weeks.

A second point worth noting from panel (b) is that for some states the confidence interval is quite large, resulting from relatively small sample sizes. Given the imprecision for such cases, we focus our analysis only on states with sample sizes of at least 300. This leads us to exclude 12 states.

We compiled comprehensive data on state abortion policies both before and after the *Dobbs* decision. Pre-*Dobbs* policies were collected from archived Guttmacher Institute data (accessed through web archives from May 2022), while post-*Dobbs* policies were compiled from current Guttmacher Institute resources and cross-validated against FiveThirtyEight’s abortion policy tracker. The Guttmacher Institute is a leading research and policy organization committed to advancing sexual and reproductive health and rights worldwide, and has tracked state abortion policies comprehensively since 1973. For analytical consistency, we standardized gestational limits across states, coding policies that referenced “viability” as 24 weeks. Using information from Ballotpedia and the Guttmacher Institute, we also categorized the mechanism through which current policies were determined (legislative action, ballot initiative, or trigger law) to examine how different policy-making processes affect alignment with public opinion.

In addition to calculating mean gestational limit preferences for all residents in each state, we also cre-

Figure 1: State opinion on weeks after which abortions should be restricted



Note: Panel (a) shows the distribution of Americans' preferences on the number of weeks up until which abortion should not be restricted. Panel (b) shows the average of this value by state.

ate the same calculations for self-identified voters and for political activists separately to examine potential representational disparities. To examine potential differences between political activists and non-activists, we developed a comprehensive activism scale using multiple measures from the CES. The scale incorporates participation in six political activities (attending political meetings, displaying political signs/stickers, working for campaigns, attending protests, contacting officials, and donating money). Respondents received one point for each activity they reported engaging in, creating a full activism score ranging from 0 to 6. We identified “activists” as individuals scoring at or above the 75th percentile of those with any political activity (excluding those with zero activism). We calculated separate thresholds for each political party to ensure we were comparing the most politically active members within each partisan group rather than comparing across parties with potentially different baseline activism levels.

Our analysis focuses on two key dimensions of democratic representation. The first is policy responsiveness – whether publics with more liberal (or conservative) preferences actually receive more liberal (or conservative) policies. One common way of measuring responsiveness is to see whether constituent preferences on some policy (or set of policies) is positively correlated with the actual policies that are enacted. If there is a positive correlation, then this indicates greater policy responsiveness.

A second measure of representation is policy congruence – the distance between the public’s preferences and the policies that they receive. Congruence is sometimes more difficult to analyze, because policies are discrete things that are passed (or not) and supported by the public (or not). However, abortion policy is an area where it is feasible to measure distance as it relates to the time during a pregnancy after which abortions are restricted. The further distance between the public’s preferred restriction point (in weeks) and the state’s policy would indicate more incongruence.

In the section that follows, we analyze these two measures of representation in turn. We also add an additional metric related to congruence, which is the extent to which policies moved closer to (or farther from) the public’s preferences after the *Dobbs* decision.

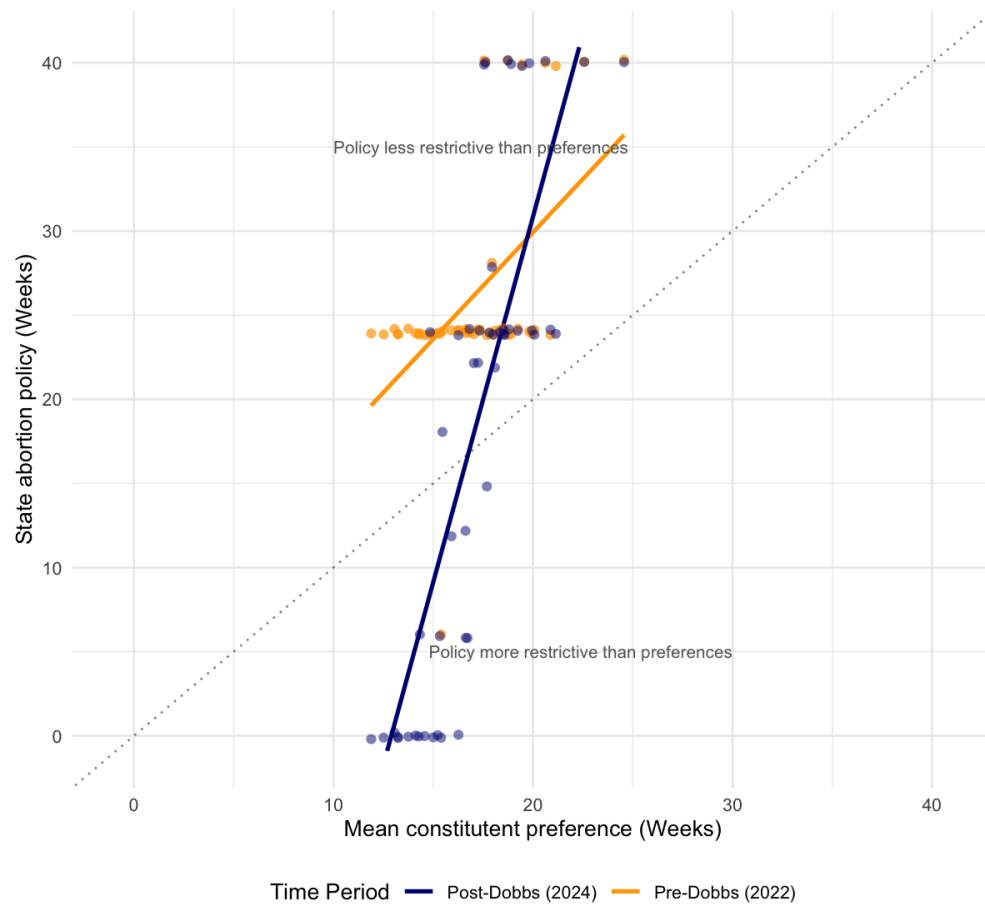
4 Results

4.1 Responsiveness

Our first analysis examines the relationship between state abortion policies and constituent preferences. Figure 2 presents this relationship, comparing the pre-*Dobbs* (May 2022) and post-*Dobbs* (November 2024) policy landscapes. State preferences in this graph are based on the 2024 CES.

Before *Dobbs*, the relationship between public opinion and state abortion policies was mixed. Constituent

Figure 2: Relationship between state abortion policies and constituent preferences before and after the *Dobbs* decision



Note: Orange entries/line show relationship between opinion and policy before the *Dobbs* decision. Blue entries/line show relationship just before the November 2024 election.

preferences only explained about 26% of the variance in state policies, however, the slope of the line was quite steep. Specifically, the coefficient was 1.27, indicating that a one-week increase in constituent preference was associated with a 1.27 week increase in the state's gestational limit. After *Dobbs*, the relationship has strengthened considerably – with preferences now explaining 66% of the variance in policies, and a much steeper coefficient of 4.35.

At first glance, this strengthened relationship might appear to support the Supreme Court's claim that returning abortion regulation to the states would enhance democratic representation. Indeed, a state's average constituent preference now accounts for far more of the variance in its abortion policy than before *Dobbs*. However, closer examination reveals that policies have not become more responsive to opinion but have instead become more extreme.

In a perfectly responsive democracy where policies accurately reflected public preferences, we would expect a slope coefficient close 1 (each one-week change in preferences would correspond to a one-week change in policy) and an intercept near zero (indicating no systematic bias). Instead, this post -*Dobbs* model shows a slope of 4.35 and a significant negative intercept of -56.05. Rather than indicating better representation, this is suggestive that policies are overly extreme relative to opinion. States with constituents who favor stronger restrictions have implemented extremely restrictive policies, while states with constituents who favor access have enacted very permissive policies. The steeper slope does not reflect improved responsiveness, but rather policy extremism that exaggerates the relatively modest differences in public opinion across states.

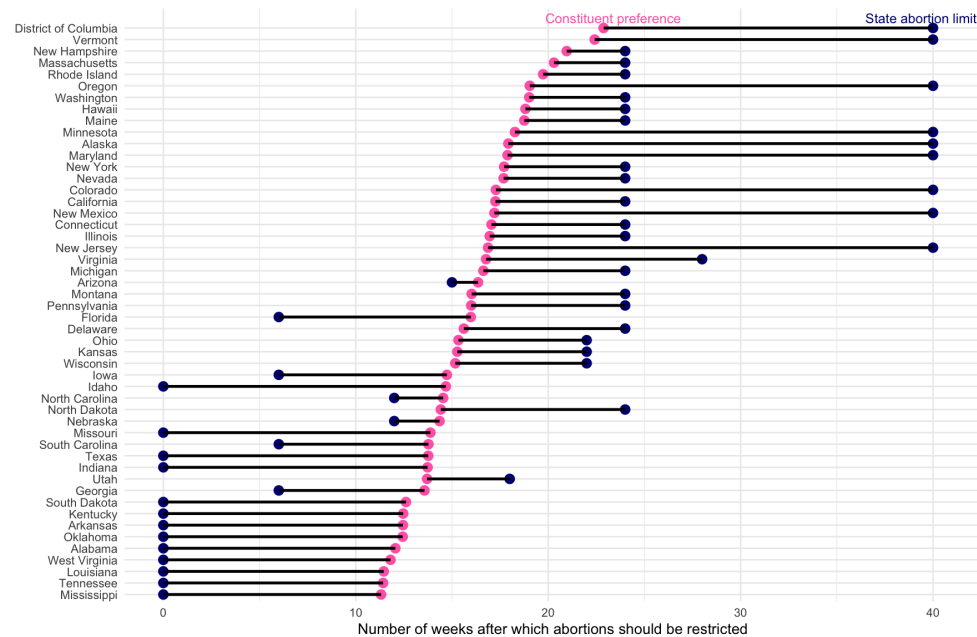
4.2 Congruence

The results in Figure 2 provide evidence of policy extremism relative to constituent preferences, but to more clearly quantify this dynamic we turn our focus to policy congruence – the distance between each state public's preferences and the policies they actually receive.

Recall that at the national level, Americans favor moderate restrictions on abortion access. The mean preferred gestational limit is 17.1 weeks among all adults and slightly more permissive at 17.7 weeks among voters. These national averages reveal an important pattern: Americans broadly prefer middle-ground policies rather than the extremes that dominate the current policy landscape (though Figure 1 shows that a significant minority of Americans do have extreme preferences).

Figure 3 presents a striking picture of democratic representation – or lack thereof – in abortion policy across American states. State policies deviate from adult preferences by an average of 10.7 weeks, a substantial gap that highlights the disconnect between what citizens want and what their governments deliver. Only 53% of the states have abortion limits that fall within 10 weeks of the mean preferences of their adult

Figure 3: Comparison of state policies on abortion gestational limits to the public opinion of all adults

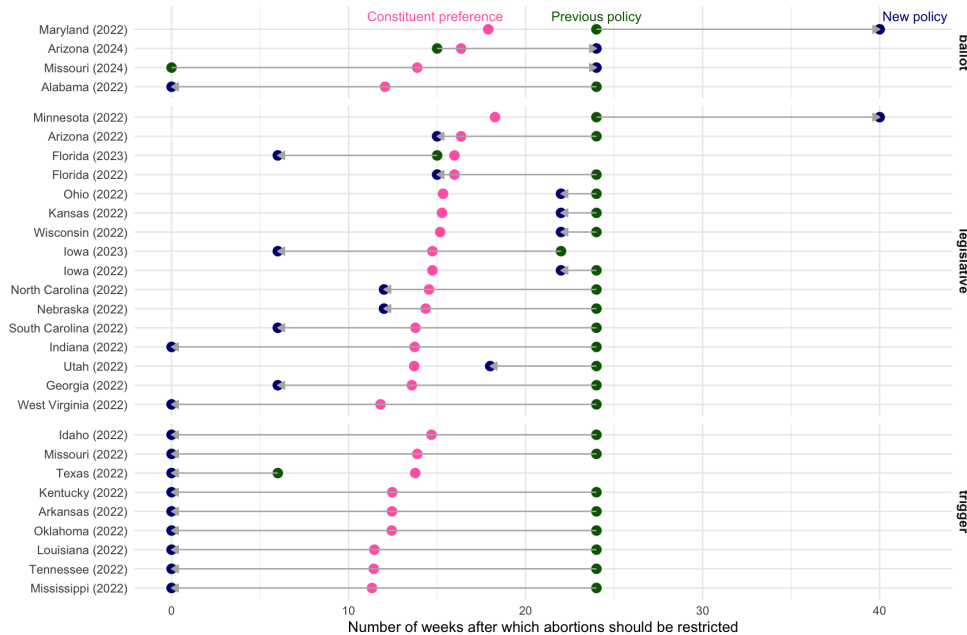


residents, and only 16% of the states have policies that are within 5 weeks of what their citizens want. This pattern leaves nearly half of all states with policies that substantially diverge from what their citizens actually prefer. The pattern of misalignment follows a clear political divide. States under Democratic control (like New Jersey, Maryland, Minnesota, Colorado, and Oregon) maintain permissive abortion access well beyond what their own residents typically prefer. Meanwhile, Republican-led states (including Alabama, Louisiana, Mississippi, and Texas) have implemented near-total abortion bans that are far more restrictive than what their citizens support.

4.3 Policy congruence before and after *Dobbs*

The *Dobbs* decision was hailed by many as a victory for federalism, with the notion being that states would now have more discretion to enact policies that reflected their own citizens' opinions. Yet, our analysis reveals that state abortion policies have actually become less representative of public preferences since the *Dobbs* decision. The average gestational limit for abortion access decreased from 26.3 weeks pre -*Dobbs* to 18.4 weeks post -*Dobbs*. While this might appear to bring policies closer to the national preference of 17.1 weeks, the aggregate figure masks significant polarization. States have not converged toward moderate policies that reflect public opinion but instead have moved toward extremes.

Figure 4: Direction and magnitude of state abortion policy changes relative to public preferences after *Dobbs*.



Note: Each row represents a distinct policy change, with state names followed by the year of change in parentheses (2022, 2023, or 2024). States with multiple policy changes appear multiple times. States are grouped by the mechanism of policy determination (ballot action, legislation, or trigger law).¹

Figure 4 shows the direction and magnitude of policy changes relative to public preferences. The average gap between state policies and public preferences increased from 9.5 weeks before *Dobbs* to 10.7 weeks after *Dobbs* through 2024, indicating reduced policy congruence. When examining individual state changes from 2022 to 2024, we find that seventeen states modified their policies to move *further away* from their constituents' preferences, while only ten states adjusted their policies to better reflect public sentiment. Since November 2024, two additional states have changed their policies: Arizona moved further from public preferences, while Missouri – despite originally having a trigger ban – moved closer to public opinion through a ballot initiative that restored the right to abortion until viability.

Several states have made numerous policy changes over the last two years, revealing dynamic policy evolution, so they appear multiple times in Figure 4. Florida initially achieved near-perfect alignment with public preferences with legislative action taken in 2022. However, a year later in 2023, the state enacted more restrictive policies, moving further from public opinion. Iowa followed a similar pattern, first aligning closer to public sentiment before subsequently restricting access beyond what constituents preferred. These patterns suggest that even when states initially respond to public preferences, subsequent political dynamics

¹We classify Alabama as a ballot action because a ballot measure was subsequently passed showing public support, despite it originally being a trigger law.

can push policies away from public opinion.

The mechanism of policy change appears related to whether that change made policy more or less reflective of public opinion. Legislative actions accounted for the majority of policy changes since 2022, with sixteen states determining abortion policy through their legislatures on 18 occasions. Among these 16 legislative actions (taken by 14 states), 12 policies (75%) moved closer to public preferences through legislative processes. This suggests that when a state's legislature took action on abortion after the *Dobbs* decision, the state had about a three-to-one chance of moving policy closer to rather than farther away from the average opinion in the state.

By contrast, states with trigger laws – pre-planned policies designed to take effect automatically upon *Roe*'s reversal – showed particularly poor responsiveness to public opinion. Only one out of ten states with trigger laws moved closer to public preferences, with the average gap increasing dramatically from 8 weeks more permissive than the public preferred to 14 weeks more restrictive. These findings indicate that trigger laws, often drafted years before the *Dobbs* decision, were especially unresponsive to current public sentiment.

Finally, out of the four states that determined abortion policy through ballot initiatives, three moved further from public preferences, though this small sample makes it difficult to draw firm conclusions about direct democracy mechanisms.

Notably, among the states that moved closer to public preferences, besides Missouri in 2024, every single one did so by becoming more restrictive. This one-directional movement has occurred because the post-*Dobbs* environment has enabled policy shifts in a more conservative direction, whereas policies before *Dobbs* were unrestrained in the permissive direction. Meanwhile, among states that moved further from public preferences, only three (Maryland, Arizona, and Minnesota) did so by becoming more accessible; all others became more restrictive than their citizens prefer. These patterns suggest that, far from enhancing democratic representation, the post-*Dobbs* policy environment has primarily enabled policy extremism that is disconnected from public preferences, particularly in states with pre-existing trigger laws.

What does this mean for how well Americans as a whole are represented by the laws of the states in which they live? Figure 5 reveals the profound and persistent scale of misrepresentation in abortion policy. The cumulative distributions show that democratic representation has been poor both before and after the *Dobbs* decision. Pre-*Dobbs*, only about 25% of Americans lived in states where abortion policies were within 5 weeks of their individual preferences, and this has barely changed post-*Dobbs*.

Figure 5: Cumulative distribution of the policy-preference gaps Americans experience, pre- and post-*Dobbs*

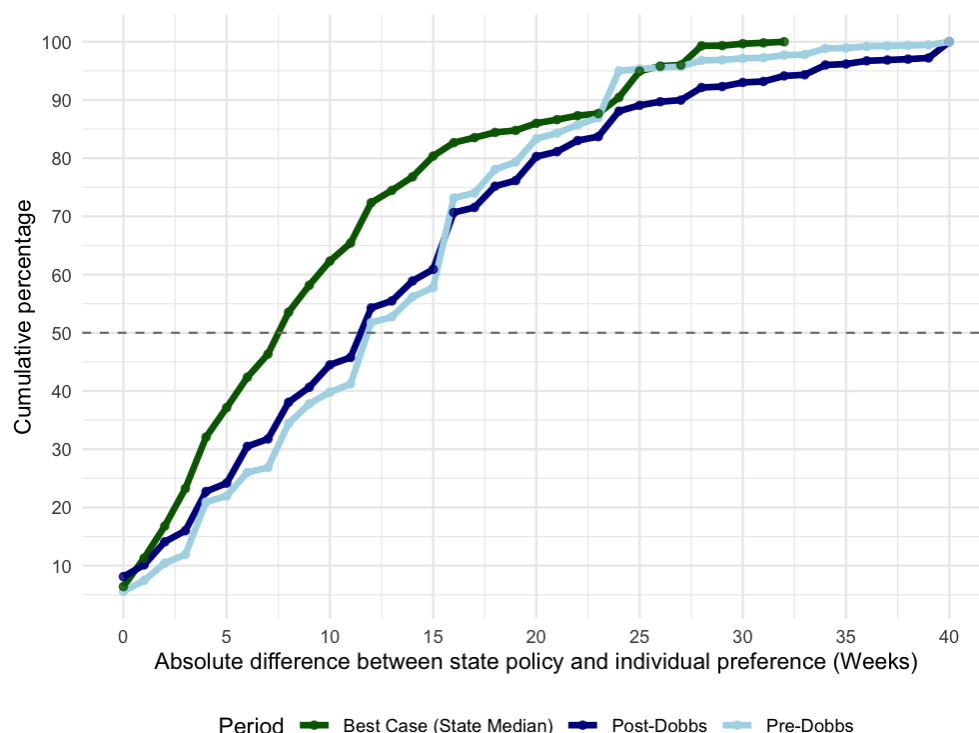


Figure 5 reveals the profound and persistent scale of misrepresentation in abortion policy. The cumulative distributions show democratic representation across three scenarios: actual policies pre-*Dobbs*, actual policies post-*Dobbs*, and a hypothetical 'best case' scenario where each state's policy perfectly matches the median preference of its residents.

Given the variance in attitudes on the abortion issue, there are always going to be large numbers of people whose views are not reflected by their state's policy. However, as a benchmark, we include a line for the 'best case' scenario. This line represents the theoretical maximum level of democratic representation achievable if every state set its abortion policy exactly at the median preference of its constituents. Even in this idealized scenario, approximately 50% of individuals would still live under policies about 8 weeks away from their personal preferences, reflecting the inherent challenge of representing diverse preferences within each state through a single policy. The gap between this best-case scenario and actual policies (both pre- and post-*Dobbs*) reveals the extent of democratic failure in abortion policymaking. While the best-case scenario would have 50% of Americans within 8 weeks of their preference, actual post-*Dobbs* policies achieve this for only slightly more 30% of the population.

The most striking finding is that misrepresentation is not a new phenomenon created by the *Dobbs*

decision – it has been a persistent feature of abortion policy in America. Only about half of Americans live in states where abortion policies are within 12 weeks of their preferences, whether under pre-*Dobbs* federal constitutional protection or post-*Dobbs* state control. The similarity between the pre- and post-*Dobbs* curves undermines the Supreme Court’s claim that returning abortion policy to the states would enhance democratic representation. While the decision dramatically changed who makes abortion policy, it has not improved how well those policies reflect public preferences. In fact, the slight divergence between the curves at certain points suggests that representation may have marginally worsened for some Americans post-*Dobbs*.

On the extreme end, approximately 40% of Americans – both before and after *Dobbs* – face policy-preference gaps exceeding 15 weeks. This means tens of millions of citizens have consistently lived under abortion policies that differ from their personal views by four months or more. By comparison, under the best case scenario, fewer than one-in-five Americans would suffer from such misrepresentation. The persistence of this pattern across both policy regimes suggests that the problem runs deeper than the level of government making the decisions.

Figure 5 reveals that policy extremism in abortion has been a chronic condition in American politics, not an acute response to the *Dobbs* decision. The consistent steepness of both curves between 5 and 20 weeks indicates that policy misalignment has long clustered in this moderate-to-severe range, leaving a vast middle ground of Americans without meaningful representation under either federal or state control.

4.4 Mean, median, or mode?

Given the significant variance in public preferences documented in Figure 1, it is worth examining more closely how the choice of representing the mean, median, or mode affects the quality of representation. Different measures of central tendency reveal different democratic ideals: representing the mean serves the “average” citizen, the median serves the middle voter, and the mode serves the most common view. Table 1 analyzes representation across all states using these three different measures of central tendency.

Table 1: Mean difference between state policy and the mean, median, and modal public preferences in each state

Metric	Mean Opinion	Median Opinion	Modal Opinion
Difference	2.7	4.8	2.8
Absolute Difference	10.7	11.2	10.0
% Within 5 Weeks	16%	8%	39%
% Within 10 Weeks	53%	61%	49%

When we examine aggregate representation across all states (Table 1), we see that current state policies systematically fail to represent constituent preferences regardless of which measure of central tendency we

use. When compared to actual policies, the directional differences are modest – policies are 2.7-4.8 weeks more permissive than these central tendencies on average. However, these small mean directional differences mask substantial absolute misalignment because extreme negative and positive values mostly cancel out. The second row of entries in the table takes the mean of the absolute difference (in weeks) between the policy and state opinion. The absolute difference between policies and opinion measures ranges from 10.0 to 11.2 weeks, indicating that most states implement policies that diverge significantly from their constituents' preferences in one direction or the other. This pattern holds regardless of whether we measure opinion using the mean, median, or mode.

Perhaps most striking is how few states achieve meaningful policy congruence with any measure of public opinion. Only 16% of states have policies within 5 weeks of their mean opinion, and this drops to just 8% for median opinion. The modal preference performs somewhat better, with 39% of states within 5 weeks, suggesting that some lawmakers may indeed be attempting to align with what they perceive as the most common view. However, even with this more generous measure, over 60% of states fail to achieve policy alignment within 5 weeks of their modal constituent preference. Regardless of the metric used, approximately 40-50% of states have policies that differ from constituent preferences by more than 10 weeks – a gap exceeding one-quarter of a full-term pregnancy.

This comprehensive failure across all measures of central tendency suggests that the problem is not simply about choosing the right metric to represent. Whether policymakers aim to represent the mean, median, or modal preference, they systematically fail to achieve meaningful congruence. The *Dobbs* decision, rather than enabling states to better reflect their constituents' views, has produced a policy landscape where extremism dominates regardless of how we measure public opinion.

4.5 Are party activists better represented?

While our previous analyses examined overall policy congruence and responsiveness, they do not tell us whether certain group's preferences receive better representation than others. Research on interest groups and issue publics provides important context for understanding representation patterns. Research has found that politically active interest group members hold systematically more extreme views than non-members within their issue publics (Claassen and Nicholson 2013). Across ten different groups, they find that members consistently express more distinctive and extreme policy attitudes. The voices of non-active citizens are not well represented within public opinion, as interest group members – who legislators often rely on to gauge opinion – hold views that diverge significantly from the broader public affected by an issue.

This pattern of misrepresentation provides motivation for our analysis that separates activists from

non-activists. If the politically active systematically differ in their preferences from the less active, and if policymakers are more responsive to active voices, we would expect to see policies that better represent activist preferences while diverging from what the general public prefers. Table 2 shows the mean directional difference between state abortion policies and the preferences of partisans and party activists, broken down by state partisan control.

Table 2: Mean difference between state policy and preferences by state party control

Group	Democratic (N = 19)	Republican (N = 20)	Split (N = 12)
Adults	11.5	-6.6	4.1
Voters	10.5	-6.8	3.6
Republicans	18.5	-1.6	11.1
Republican Activists	20.5	-6.3	7.5
Democrats	6.6	-13.5	-2.1
Democratic Activists	1.1	-23.0	-8.4

Positive values: Policy is more permissive than preferences. Negative values: Policy is more restrictive than preferences.

In Democratic-controlled states, policies are consistently more permissive than what all constituent groups prefer, but to varying degrees. These policies are dramatically more permissive (by 18.5 and 20.5 weeks) than what Republican constituents and activists prefer, while being moderately more permissive (by 6.6 weeks) than what Democratic constituents prefer. Democratic activists' preferences receive the closest representation, with policies being only 1.1 weeks more permissive than they prefer. This reveals that Democratic-controlled states do not just better represent Democratic preferences – they actually implement policies that are more permissive than what even their Democratic constituents desire, particularly aligning with their most activist supporters.

Conversely, Republican-controlled states implement policies that are more restrictive than what all groups prefer, but to different degrees. The gap is smallest for Republican preferences, where policies are just 1.6 weeks more restrictive than what Republican constituents prefer and 6.3 weeks more restrictive than what Republican activists prefer. For Democratic constituents, however, these policies are drastically more restrictive (by 13.5 weeks) than preferred, with the gap widening to 23.0 weeks for Democratic activists. This demonstrates that Republican states do not merely favor Republican preferences – they implement policies that are even more restrictive than what their core supporters desire.

States with split control might be expected to offer compromise, and their policies do appear to be closer to constituent preferences than those in states under one-party control. Split control state policies are 4.1

weeks more permissive than what adults want overall, significantly overreaching what Republicans prefer (by 11.1 weeks) while still being slightly more restrictive than what Democrats prefer (by 2.1 weeks).

Ultimately, however, Table 2 shows that party-control does make an important difference for who is represented by a state's abortion policy. In Democratic-controlled states, Democratic activists opinions are well-represented by policies, while in Republican-controlled states rank-and-file Republicans receive close representation of their views. Democrats are best represented by states with split control.

5 Conclusion

The Supreme Court's *Dobbs* decision promised to enhance democratic representation by returning abortion policy to the states. Our analysis reveals this promise has gone unfulfilled. Rather than producing policies that better reflect public preferences, *Dobbs* has enabled policy extremism that systematically diverges from what most Americans want. While Americans broadly favor moderate abortion restrictions (averaging 12-20 weeks), state policies have become increasingly extreme, ranging from total bans to no gestational limits. After *Dobbs*, policies have started to exaggerate, rather than accurately reflect, the relatively modest differences in public opinion across states. Only 50% of Americans live in states where policies are within 12 weeks of their preferences, and 40% face gaps exceeding 15 weeks.

We revealed that seventeen states moved their policies further from public preferences after *Dobbs*, while only ten moved closer. This shift to greater extremism is particularly pronounced in states with trigger laws. These pre-planned policies, designed to take effect automatically upon *Roe*'s reversal, showed especially poor alignment with current public opinion. Among the ten states with trigger laws in effect in 2024, only one moved closer to public preferences after *Dobbs*, with the average gap increasing from 8 weeks more permissive than what the public wanted to 14 weeks more restrictive than the average citizen's preference. Most of these laws were passed years before the *Dobbs* decision – Louisiana's as early as 2006, Mississippi's in 2007, and Tennessee's in 2019. This temporal disconnect helps explain their poor congruence with current public opinion. These laws represent a unique form of policymaking: legislators enacted policies for a hypothetical future where *Roe* no longer existed. Without the immediate accountability that comes with implementing active policy, lawmakers could adopt extreme positions more easily. Voting for a theoretical ban that would not take effect carries different political costs than voting for an immediate ban that affects constituents immediately.

We found mixed support for the notion that party activists receive better representation. Democratic states implement policies that are about 1.5 months more permissive than their Democratic constituents prefer, but Democratic Party activists receive close representation in Democratic-controlled states (a differ-

ence of just 1.1 weeks). Republican states impose restrictions only slightly beyond what their Republican constituents support (a difference of 1.6 weeks). Republican Party activists fare worse than rank-and-file Republicans in GOP controlled states, receiving policies that are 6.3 weeks more restrictive than they prefer.

Ultimately, our findings demonstrate that returning abortion policy to the states has not improved democratic representation but instead has enabled policy extremism disconnected from public opinion. Far from empowering “the people” as promised, the *Dobbs* decision has created a landscape where most Americans live under abortion policies that fail to represent their views.

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