



Reform The Supreme Court to Rebuild America

The Problem:

Our Supreme Court should ensure equal justice for all Americans, but it has been captured by a narrow political minority, putting our rights and our democracy itself in danger, and making the current COVID crisis much worse by hollowing out the middle class, striking down Medicaid expansion, and relegating racial minorities to second class status.

A decades-long effort by Republicans to seize control of the judicial branch has succeeded. Republicans completed their takeover of the Supreme Court with an unprecedented power grab, manipulating the size of the court by refusing to consider President Obama's nominee for an open seat (and indicating that they would leave the seat open if Hillary Clinton won the 2016 election), then promptly changing Senate rules to fill the seat with a bare majority, rather than the previously-required 60 votes, when Trump took office.

The result is an affront to democracy: 15 of the last 19 Supreme Court justices were nominated by Republicans, despite the fact that Republicans have lost the popular vote in six of the last seven presidential elections. Four of the five conservatives currently on the court were appointed by Republicans who took office despite losing the popular vote.

The Supreme Court's conservative majority has made its allegiance to the Republican party quite clear. In all 80 civil cases implicating a Republican donor interest that was decided by 5-4 majority during John Roberts' tenure as chief justice, Republican donor interests are undefeated -- 80-0. These rulings include odious decisions such as *Heller* (striking an unprecedented blow to gun safety laws), *Janus*, curtailing workers' ability to organize, and *Hobby Lobby*, allowing employers to disobey federal law and withhold contraception from workers on the basis of religious concerns).

But that's just the beginning. The activist conservatives who control the Supreme Court are poised to trample existing rights, from reproductive freedom to LGBTQ rights -- and to block any significant progressive legislation in the future on urgent crises from climate change to health care to gun safety. The Supreme Court threatens to make it virtually impossible for progressives to enact the progressive policies supported by a clear majority of Americans. This problem won't go away on its own.

Lifetime appointments mean that without reform, changing the composition of the Court will be slow and unpredictable work that could take decades -- and the Electoral College and Senate both provide structural advantages for Republicans that will help America's conservative political minority retain control of the Court, particularly given their demonstrated willingness to break any norm necessary to do so. And the justices and judges that Republicans have appointed are active participants in the right-wing effort to entrench minority rule in all branches of government: conservatives on the Supreme Court have gutted the Voting Rights Act, flooded our elections with corporate money, curtailed workers' rights to organize politically, and endorsed gerrymandering.

The Solution:

The fastest, most effective way to reverse the Republican theft of the Supreme Court and make the court representative of all Americans is to enact legislation increasing the size of the Court by at least two seats, and to quickly fill those seats with justices who will safeguard our democracy. Unlike other reforms, expanding the size of the Supreme Court can be done via legislation that need only be passed by simple majorities in Congress -- the Constitution does not set the number of justices on the Supreme Court, which has been changed several times in American history with legislation. Subsequent reforms like term limits and a code of ethics for justices will prevent a narrow political faction from ever again gaining lasting control over the judiciary.

America is in crisis. A serious and realistic response to that crisis requires swiftly enacting structural reforms to restore our democracy and protect the rights of all Americans. If we continue to allow Brett Kavanaugh and Clarence Thomas to have a veto over the policies chosen by the majority of Americans we won't be able to do the things necessary to rebuild our economy, provide health care to all Americans, tackle climate change, and ensure the ability of all Americans to participate in our democracy.

Signatories

Take Back The Court
Demand Justice
Progressive Change Institute
Demand Progress
Sunrise Movement
Hero Action Fund
Presente.org
Friends of the Earth
350.org