

# DAILY KOS

## 'We are at risk of losing legitimacy as a nation' because of Republican Supreme Court blockade plans

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When Sen. John McCain let slip that Republicans "will be united against any Supreme Court nominee that Hillary Clinton" would put forward, it seemed such a radical idea that many assumed he just got caught up in the rhetoric of the campaign. Turns out, it's the actual strategy of Republicans.

Sen. Ted Cruz (R-TX) told reporters that the Senate would have a "debate" about whether to accept Clinton's nominees and that there was nothing wrong with having just eight justices. [...]

Cato Institute scholar Ilya Shapiro wrote a piece in the Federalist last week arguing that the GOP could just flat out refuse to move forward with any of Clinton's Supreme Court nominees. [...]

Michael Paulsen, a conservative lawyer, wrote an op-ed in the National Review titled "The Case for Shrinking the Supreme Court."

In that op-ed, Paulsen argued that "the Supreme Court should be smaller so that it can do less harm," and that the Senate should "adopt a standing rule" on "advice and consent" to allow "no more confirmations until the court dips below six" justices.

They're serious about this, and they're lining up their quasi-legal arguments to justify doing it. Not that they need any valid arguments to justify their blockades—everything they've come up with for blocking Merrick Garland, President Obama's current nominee, have been totally specious.

This, says Paul Painter, a professor of law at the University of Minnesota and former White House counsel in the George. W. Bush administration, is "a clear abdication by the senator of his responsibility to carry out in good faith the advice and consent function set forth in the Constitution." He adds "if high-ranking leaders in the Republican Party, my own party, conduct themselves in this fashion, our party will soon be irrelevant in the Senate as everywhere else on the political landscape. The voters simply will not put up with it." But of course it's not just the GOP that's endangered here. It's actually our system of government. That's a point made by Charles Gardner Geyh, a professor of law at Indiana University. "We are at risk of losing legitimacy as a nation in terms of being able to govern effectively."

Sounds like kind of a big deal, huh? It is. It's the Supreme Court, which is just about everything. It's why Democrats *must* retake the Senate in 8 days.