



## **Court-packing supporters tell Biden Supreme Court commission 'democracy is under assault' by justices**

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Court-packing supporters told President Biden's Supreme Court commission that sitting Supreme Court justices represent a grave threat to democracy in remarks alleging an urgent need to add justices to the bench after former President Donald Trump appointed three during his term.

The comments came during a marathon meeting, including six panels, examining the Supreme Court nomination process, the composition of the court and more. Conservatives on those panels, meanwhile, said it is actually progressives' calls to pack the court that will harm its legitimacy beyond repair.

The meeting was the third held by the commission, which is tasked with producing a report for the president later this year on the status of the debate over the U.S. court system – particularly the Supreme Court – and potential reforms to it.

Nan Aron, the president of the progressive Alliance for Justice, accused Republicans of hypocrisy for how they confirmed Justices Neil Gorsuch, Brett Kavanaugh and Amy Coney Barrett, and accused those justices of bias.

"It would be one thing if these justices then turned around and were fair and impartial. However, in scores of democracy cases, they've consistently undermined democracy and aided the very party that appointed them," she said. "Republicans are using this undemocratic and partisan majority on the court to cement their own power."

Therefore, Aron concluded, "If the court day after day continues to bend the law to side with the wealthy and powerful... then the only possible conclusion is that reform is imperative."

"Unless there are real reforms to the court, including expanding the number of justices, something completely constitutional and done regularly throughout our history, our system of government and our rights and legal protections will be eroded for generations," Aron said.

Christopher Kang, the co-founder and chief counsel of the pro-court-packing group Demand Justice, alleged that he saw Republicans "steal a Supreme Court seat from President Obama," and called it a "fiction" that there is an "independent judiciary" that should be elevated above politics.

"Our democracy is under assault by this Supreme Court," Kang said. "So we cannot evaluate reform proposals under a rubric of whether or not they will preserve this court... We need to expand the Supreme Court."

The Biden commission also took testimony from some right-leaning voices, including Curt Levey, the president of the Committee for Justice.

"[Court-packing] is the last thing we need if we value judicial independence and preserving the court's legitimacy," Levey said in written testimony. He specifically decried as "dangerous" court-packing threats aimed "to try to intimidate the court into deciding a case one way or another or, more generally, moving to the left or right."

Levey added in his live remarks during the hearing that he could support a "constitutional amendment that prohibits court-packing – that would fix the number of justices on the court at nine, for example, and take it out of the realm of politics."

Georgetown University Law Professor Randy Barnett, expected to speak later Tuesday afternoon, will also slam court-packing as something that "would end the independence of the Supreme Court... and would destroy the Supreme Court as a protector of our rights and liberties from majoritarian infringement."

Ilya Shapiro of the libertarian Cato Institute, meanwhile, decried the Supreme Court confirmation process as the fundamental cause of the court's ills, calling it "Kabuki theater." He suggested an end to confirmation hearings altogether and reducing the size of the federal government – and therefore the Supreme Court's importance.

"Public hearings have only been around for a century and they weren't regular practice until the 1950s when Dixiecrats used them to rail against *Brown v. Board*," Shapiro said. "These days senators try to get nominees to admit that controversial cases are settled law... And that's before we get to gotcha questions or last-minute accusations of sexual impropriety."

"The fundamental problem is the politicization not of the process, but of the product," Shapiro added. "The reason we have these heated battles is that the federal government is making too many decisions for such a large, diverse, pluralistic country."