

In response to the confirmation of Amy Coney Barrett to the Supreme Court, a coalition of elected officials in New York City released the following statement:

“Ostensibly, the role of the Supreme Court is not to make policy, or to implement a political agenda. It’s to determine whether or not the policies and the political agendas enacted by other branches of government are consistent with the Constitution and the laws of the United States.

But this narrative simply isn’t true. The Supreme Court has always been a political institution. The Republican Party recognizes this reality and uses aggressive tactics to stack the courts with right-wing ideologues, cultivated in their own parallel legal ecosystem. Meanwhile, the Democratic Party has fought to preserve the myth of our apolitical judiciary, unilaterally disarming in the battles that decide which judges are confirmed to the federal bench. This asymmetry is exacerbated by our dysfunctional electoral system. Hundreds of federal judges - including a majority on the Supreme Court - have now been appointed by presidents who lost the popular vote.

The result has been catastrophic. A right-wing supermajority now sits on the Supreme Court. The federal judiciary is teeming with hundreds of conservative fanatics appointed by Donald Trump. They are poised to destroy what little remains of abortion access, labor rights, civil rights protections, and social insurance.

Not only do these extremist judges threaten more than a century of progressive achievements, they threaten to foreclose the possibility of any future progress under a Democratic administration. Already, the Roberts court has gutted the most progressive elements of the Affordable Care Act, denying Medicaid coverage to millions of poor Americans. In doing so, the court has shown itself unwilling to tolerate even Democrats’ most conservative gestures at reform. Any agenda in a potential Biden administration will be doomed to the same fate, and countless Americans will suffer and die as a result.

That cannot happen. This court is illegitimate, and must not be allowed to wreak misery on millions of Americans in service of a far-right minority and their corporate backers. Congressional Democrats must end the filibuster and pass legislation to expand the court. Should he win, Joe Biden must sign it into law.

The number of justices on the Supreme Court is not constitutionally mandated. The court’s structure is the prerogative of the legislature, which is unambiguously empowered to determine its size. It has changed multiple times throughout the court’s history, from as few as five justices and as many as ten, and a future Democratic government must exercise its legitimate constitutional powers to expand it again. In doing so, it must be guided not by illusory notions of norms or uncritical fealty to process and precedent. It must be guided by a commitment to guaranteeing the human dignity to which every person in this country is entitled. The number of justices added must reflect this commitment.

The pursuit of substantive principles, not conformity with process norms, is what defines Republicans’ posture toward the federal judiciary, and it’s why they now control it. It defines their posture toward state courts in places like Arizona, where in 2016, they expanded the state Supreme Court to cement their grip on power. Democrats must start playing the game as they do, and entertain no criticism for doing so.

As leader of the Senate Democratic conference, Chuck Schumer needs to step up to the plate. Should Democrats retake the Senate, he will decide whether or not such legislation receives a vote, and even if they don't, he needs to model the correct position for his members. We call on Senator Schumer to immediately, publicly support the expansion of the Supreme Court, to commit to bringing such legislation to a vote should Democrats recapture the majority, and to whip support for such legislation within his caucus.

Anything less is unacceptable, and we commit to organizing to hold him accountable should he fail to do so.”

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Marcela Mitaynes

Member-Elect of the State Assembly, District 35

Emily Gallagher

Member-Elect of the State Assembly, District 50

Kenny Burgos

Member-Elect of the State Assembly, District 85

Harvey Epstein

Member of the State Assembly, District 74

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Julia Salazar

Member of the State Senate, District 18

Jessica Ramos

Member of the State Senate, District 13

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Member of the City Council, District 34

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Chantel Jackson

Member-Elect of the State Assembly, District 79

Ron Kim

Member of the State Assembly, District 40

Robert Carroll

Member of the State Assembly, District 44

Linda Rosenthal

Member of the State Assembly, District 67

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