

Statement of Principles: The Biden Administration Must Prioritize Judges

After years of obstructing President Obama's nominees, Senate Republicans have prioritized packing the courts with Trump's ultraconservative and sometimes unqualified jurists. They have dismantled Senate rules and undermined norms to confirm over 200 judges to lifetime seats on the federal courts at a breakneck pace that will impact our laws for decades to come.

Most recently, Republicans rammed onto the Court Amy Coney Barrett through an illegitimate and sham process, making our high court even more extreme. They have ensured a 6-3 conservative majority on the Supreme Court for the foreseeable future (after unprecedented abdication of their duty to consider Merrick Garland's nomination), entrenched conservative majorities on key courts of appeals, and stacked the trial courts with their appointees. These judges have been predominantly white and male with demonstrated records favoring the wealthy and powerful over the rights of all of us.

At the time of their confirmations, Trump's nominees already had records posing a severe threat to the rights of women, workers, people of color, LGBTQ communities, immigrants, consumers, and the environment. Now on the bench, their rulings have more than justified our concerns. Trump-appointed justices have already rolled back hard-won rights and legal protections so critical to everyday Americans, while expanding the power of those at the top.

Donald Trump and Senate Republicans have overwhelmingly shifted the balance of our courts. That is why the Biden administration must immediately and explicitly prioritize judicial appointments.

For the sake of the rule of law, equal justice, essential rights, and critical legal protections, the Biden administration must repair the damage. All the administration's priorities, from preserving protections for the Affordable Care Act, voting rights, women and reproductive rights, communities of color, LGBTQ communities, workers, the environment, consumers, and key civil rights hang in the balance in the courts.

Towards that end, the following organizations representing a diverse array of constituencies and missions call upon the next administration to prioritize the confirmation of judges to the federal bench to ensure a justice system that is truly committed to equal justice under law. While critical discussions must occur regarding structural reforms to our judiciary, on day one the Biden administration must:

BE PREPARED TO NOMINATE DEMOGRAPHICALLY AND EXPERIENTIALLY DIVERSE JUDGES WITH A DEMONSTRATED COMMITMENT TO EQUAL JUSTICE

The Biden administration must be prepared to fill any Supreme Court vacancy immediately and expeditiously fill lower court judgeships. The White House must also pledge to nominate candidates with a demonstrated commitment to equal justice. For all judicial vacancies, moreover, the Biden administration should prioritize candidates who are demographically diverse, including from communities of color, women, LGBTQ communities, people with

disabilities, and other underrepresented groups; and come from a range of professional backgrounds, including public interest lawyers, civil rights lawyers, labor lawyers, plaintiffs' lawyers, and public defenders.

In addition, Senators must recommend names to the Biden administration expeditiously. And, senators must appoint experientially and demographically diverse lawyers to their judicial selection commissions to ensure a broad, diverse pool of nominees are put forth.

PREVENT PROCEDURAL ROADBLOCKS FROM DELAYING EXPEDITIOUS CONFIRMATION OF OUTSTANDING JURISTS

The administration must be ready not only to nominate but to fight for nominees even in the face of opposition.

Rules put in place by Senate Republicans to fast-track the confirmation of Trump-appointed judges must remain in place for the Biden administration. This means no supermajority vote for Supreme Court nominees; two hours of post-cloture debate for district court nominees; hearings with multiple nominees; and no blue slip veto for appellate nominees, at a minimum.

SUPPORT LEGISLATION TO CREATE NEW JUDGESHIPS

Historically, Congress routinely expanded the number of district and circuit court judgeships to keep up with population and increased caseloads. Since 1990, however, the number of judges has not significantly increased. The Judicial Conference, the policy-making body for the federal court headed by Chief Justice John Roberts, has recommended creating new judgeships to help address the significant increase in cases. At a minimum, these recommendations should be adopted.

ENSURE STAFF AT THE WHITE HOUSE AND JUSTICE DEPARTMENT ARE COMMITTED TO PRIORITIZING JUDICIAL SELECTIONS

The administration must be comprised of qualified and sufficient staff, from the White House Counsel and their staff to the Department of Justice Office of Legal Policy, committed to expeditiously vetting and marshaling nominees through Senate confirmation.

Moreover, staff involved in judicial selection should have experience and deep connections within civil rights and public interest communities and be committed to, and representative of, a judiciary comprised of judges from a wide range of legal backgrounds. They should also reflect the type of demographic and experiential diversity we urge the Biden administration to achieve on the federal bench.

Signatories:

Alliance for Justice
American Atheists
American Constitution Society
American Muslim Health Professionals
American-Arab Anti-Discrimination Committee (ADC)
Asian Americans Advancing Justice - AAJC
Asian Pacific American Labor Alliance
Association of People Supporting Employment First
California Women's Law Center
Caneiwalk
Catholics for Choice
Center for Biological Diversity
CenterLink: The Community of LGBT Centers
Chicago Women Take Action
Clearinghouse on Women's Issues
Community Catalyst
Constitutional Accountability Center
Courts Matter Illinois
Disability Rights Education & Defense Fund (DREDF)
Earthjustice
Equal Justice Society
Equality Federation
Equality North Carolina
Feminist Majority Foundation
Food Research & Action Center
Freedom From Religion Foundation
Human Rights Campaign
If/When/How: Lawyering for Reproductive Justice
Indivisible
Lambda Legal
Lawyers for Good Government (L4GG)
League of Conservation Voters
Legal Aid at Work

Little Lobbyists
March for Our Lives
Matthew Shepard Foundation
Mi Familia Vota
NARAL Pro-Choice America
NARAL Pro-Choice Maryland
NARAL Pro-Choice Oregon
NARAL Pro-Choice Virginia
National Asian Pacific American Women's Forum (NAPAWF)
National Center for Transgender Equality
National Committee for Responsive Philanthropy
National Council of Jewish Women
National Education Association
National Employment Lawyers Association
National Equality Action Team (NEAT)
National Organization for Women
National Partnership for Women & Families
National Women's Health Network
National Women's Law Center
Northern New Jersey NOW
People For the American Way
People's Parity Project
Planned Parenthood Action Fund
Population Connection Action Fund
Positive Women's Network-USA
Pride at Work
RepresentUs New Mexico
Shriver Center on Poverty Law
SIECUS: Sex Ed for Social Change
States United to Prevent Gun Violence
Step Forward Strategies
The Justice Collaborative
The Womxn Project
True North Research

UltraViolet

Voices for Progress

Women's Foundation California

Younger Women's Task Force of Greater Lafayette