



Written by [Elad Hakim](#) on April 12, 2021

Biden’s Presidential Commission on the Supreme Court: Another Attempt to Assert Power and Control

On April 9, the White House issued a [statement](#) regarding President Biden’s [executive order](#) creating a Presidential Commission on the Supreme Court of the United States. The statement clarified the exact role and purpose of Biden’s new commission, which should startle all Americans. More particularly, some of the powers allocated to the commission entirely do away with the concept of separation of powers and directly interfere with the role of the judiciary.

[Article I, Section 1](#) of the Constitution vests all legislative powers in Congress (a Senate and House of Representatives). [Article II, Section 1](#) vests the executive power in the president. Finally, Article III, Section 1 vests the judicial power of the United States in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. In other words, the powers of the three branches are separate so as to prevent one branch from having too much power and/or abusing such power.

Despite the clearly defined roles of the various branches, the recent statement released by the White House appears to ignore this outright. More particularly, according to the [statement](#):

The Commission’s purpose is to provide an analysis of the principal arguments in the contemporary public debate for and against Supreme Court reform, including an appraisal of the merits and legality of particular reform proposals. The topics it will examine include the genesis of the reform debate; the Court’s role in the Constitutional system; the length of service and turnover of justices on the Court; the membership and size of the Court; and the Court’s case selection, rules, and practices.

In accordance with this statement, Biden clearly intends to empower the commission to examine the Supreme Court’s “role in the Constitutional system,” the membership and size of the Court, and the Court’s case selection, rules, and practices. In other words, the commission will be playing the role of “king” on Biden’s behalf.

These “powers” should be rejected outright for several reasons.



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To begin, the Supreme Court's role was established many years ago in the case of [Marbury v. Madison](#) and does not need to "examined." According to the [Federal Judicial Center](#):

Marbury v. Madison (1803) was the first case in which the Supreme Court of the United States invalidated a law passed by Congress. Chief Justice John Marshall's opinion for the Court articulated and defended the theory of judicial review, which holds that courts have the power to strike down legislation that violates the Constitution.

Additionally, the commission has no business in determining the cases that the Supreme Court hears, or the rules and practices that govern the Supreme Court. From a political standpoint, it is quite clear why Biden wants to give the commission such massive power and responsibility, as it would make it easier for Biden and the Left to pass their far-left policies by selecting only the cases that align with their beliefs and determining the rules that govern the nation's highest court (i.e., will they change the "[Rule of Four](#)"?).

Tangentially, the commission's power to examine the "membership and size of the Court" is also vague and unclear. What, specifically, is meant by "membership" in the Supreme Court? Moreover, what reason, if any, is there to examine the "size" of the Supreme Court unless you are seriously thinking about changing it, possibly by way of packing?

In reality, the newly formed commission is yet another attempt by Biden and those on the Left to gain power and control. Practically speaking, a commission appointed by the president should not be permitted to decide what cases the Supreme Court decides to hear, nor should it decide the rules and practices that govern the Supreme Court (the potential risks are clear and include the possibility of bias and abuse of power).

Additionally, there are serious questions as to whether such conduct violates the doctrine of separation of powers (i.e., the decision as to what cases to hear belongs to the judicial branch, not the executive or legislative branches). Finally, there is absolutely no legitimate or compelling reason why Biden (or the commission) should have any role in deciding what cases the Supreme Court ultimately hears. What, for example, would prevent the court from outright rejecting cases that are important to Republicans and/or that address more conservative-leaning issues/policies?

Biden and the Democrat-controlled Congress want to assert power and control over the people of this great nation. They want to eliminate the filibuster, which will allow them to pass their far-left bills. They want to control the nation's election/voting laws (by way of H.R. 1). Finally, they want to control the Supreme Court (starting with the formation of a commission), which will give them the power to create far-left and dangerous legal precedent.

Fortunately, many Republicans and Republican-led states realize what is at stake. As such, like many of Biden's previous executive orders, his most recent [executive order](#) is likely to face numerous legal challenges in the not-too-distant future.



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