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Will The GOP Nuke The Constitution?

By Arianna Huffington

Right now, somewhere in the White House, administration strategists are hatching plans to go to war. Battle plans are being drawn. Timing and tactics are being finalized. A nuclear option is even being openly discussed.

The designated target? Iran? Syria? North Korea?

No, much closer to home: the United States Senate.

Salivating at the chance to radically remake the Supreme Court, the president and his loyal lapdogs in the World's Most Exclusive Club are plotting to obliterate over 200 years of Senate tradition by eliminating the use of filibusters against judicial nominees.

The Robert's Rules of Disorder scheme would involve — who else? — Vice President Dick Cheney, in his role as presiding Senate officer, ruling that judicial filibusters are unconstitutional and Majority Leader Bill Frist squashing the Democrats' inevitable objection to such an edict by tabling the motion. As long as we're "spreading democracy" abroad, no reason to leave out the home front, right?

This is the so-called "nuclear option," embraced with a wink and a nudge by Frist in November when he told the conservative Federalist Society: "One way or another, the filibuster of judicial nominees must end."

Invoking this parliamentary dirty trick would eliminate unlimited debate on judicial nominations and lower the number of votes needed before a nominee can be confirmed from the 60 necessary to break a filibuster to a simple majority of 51, and would drive a stake through the heart of the Senate's longstanding commitment — indeed one of its founding purposes — to defending the rights of the minority.

This scorched-earth approach is entirely in keeping with what Time magazine lauds this week as President Bush's "ten-gallon-hat leadership" style — a my-way-or-the-highway approach rooted in arrogance and laced with an intolerance of dissent that has already delivered him a rubber stamp Cabinet. Now he wants a rubber stamp Senate.

Over the course of his first term, 204 of Bush's judicial nominees received Senate approval; just 10 were blocked. This is the highest number of lower-court confirmations any president has had in his first term since 1980 — including President Reagan. But, apparently, the highest is not enough. This president wants total approval of his every wish.

One small problem: That's not the way the Founding Fathers designed things. They had these funny notions about three separate but equal branches of government, free and open debate,

and the value of checks and balances to ward off the overreaching for power by those in the majority. They built an entire system of government to counteract the abuse that inevitably goes with overreaching.

Yet that is precisely what the plan to do away with judicial filibusters is: an out-and-out power grab by the president and his Congressional accomplices. An underhanded scheme to kneecap the Constitution and take away the only weapon vanquished Democrats are left with to defend against Bush's "ten-gallon-hat" juggernaut.

It would be impossible to overstate the importance of this battle. It is nothing less than a fight for the soul of our democracy — for what kind of country we want to live in.

"George W. Bush," Ralph Neas, President of People for the American Way, told me, "has made it clear, both through his public comments and through the judges he has nominated to appellate courts, that he is committed to advancing an ideological agenda that would roll back many of the social and legal gains of the last century."

According to Neas, who has been at the forefront of judicial battles since the fight against Robert Bork in 1987, this is not just about Roe vs. Wade — it's also about turning the clock back to a time when states' rights and property rights trumped the protection of individual liberties and the ability of Congress to act in the common good on issues as far-ranging as civil rights enforcement, environmental protection, and worker health and safety.

This is not overheated partisan rhetoric but a realistic appraisal of the rulings handed down by the federal judges Bush has already appointed — and of the written opinions of Antonin Scalia and Clarence Thomas, the Supreme Court Justices the president has cited as his models for future nominees to the High Court. "Courting Disaster 2004," a study by People for the American Way Foundation, found that adding just one or two Scalia/Thomas clones to the Supreme Court would put at risk more than 100 precedents and the legal protections they safeguard.

We're talking about the Voting Rights Act, affirmative action, worker protections, access to contraceptives and legal abortions, laws protecting our clean air and drinking water, and on and on.

Senate rules regarding filibusters are not something most Americans will find themselves discussing over a glass of eggnog during the holidays. But the impact these rules can have on our lives is staggering. And it must be made clear right now — not when Chief Justice Rehnquist resigns and Cheney and Frist team up to push the nuclear button. By then it will be much too late, and all Harry Reid will be able to do is duck and cover. True leadership is being able to see not just the crisis staring you in the face — but the one lurking just around the corner.

President Bush is pulling on his oversized Stetson and gearing up for battle. And here, unlike Iraq, he's making sure his political troops have all the armor they need. The Democrats need to pre-emptively launch an all-out campaign to educate the American people about what will be at

stake during the coming assault on our democratic values.

If they succeed, they will have the public with them, even if it becomes necessary to resort to threats of Mutually Assured Legislative Destruction. Let's hope that's not what it will take to protect the Senate, the Constitution, and over 65 years of hard-won social victories from the GOP's looming nuclear winter.

