

Trump's Supreme Court Nomination: A Hard-Right Transformational Choice

By [Stephen Lendman](#)

Global Research, July 11, 2018

Region: [USA](#)

Theme: [History](#), [Law and Justice](#)

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*Long gone from the High Court are towering figures like **William Brennan** and **Thurgood Marshall**, the Court's finest hours during their tenure – champions of justice for all.*

Law **Professor Stephen Gillers** once said Brennan deserves “much of the credit for fashioning the legal theories that could support the progressive decisions (during his tenure on the High Court), and for then persuading a majority of his colleagues to accept them.”

Thurgood Marshall was a pillar in the battle for racial justice. One admirer called him the “great dismantler of Jim Crow, a colossus of US history.”

The likes of him, Brennan, and likeminded Supremes are long gone from the High Court, equal justice for all in the nation's courts gone with them most often.

Brett Kavanaugh's appointment to the Supreme Court is likely. All 49 undemocratic Dems against him aren't enough – getting two Republican senators to join their opposition possible but unlikely.

ACLU legal director **David Cole** issued the following statement in response to his nomination, saying:

“Brett Kavanaugh may bring the requisite experience, but given Donald Trump's promise to overturn *Roe v. Wade*, the decision that recognized the right to an abortion, and efforts to reverse progress on civil rights and civil liberties, that's not enough.”

“It's incumbent on Congress to determine whether Kavanaugh's legal views are compatible with the powerful role he will play for generations.”

“If confirmed, Kavanaugh could very well be the decisive vote Trump needs in the Supreme Court to give his concerted campaign to undermine civil liberties and civil rights long-term impact.”

“And in light of President Trump's promise to appoint justices who would overturn *Roe*, this nomination could jeopardize the right to an abortion millions of women and families have relied on for more than four decades.”

“Justice Kennedy kept the court in the mainstream by having an open mind and a commitment to an evolving Constitution.”

“Senators should ask Kavanaugh whether he agrees that constitutional law evolves with the times, as it did in recognizing that segregation is

unconstitutional, that sex discrimination violates the Equal Protection Clause, and that marriage equality is constitutionally guaranteed.”

ACLU reproductive freedom project director **Talcott Camp** said the following:

Trump’s vow “to only nominate justices who would overturn Roe v. Wade, (raises) serious concern about women’s continued ability to access abortion if Kavanaugh is confirmed.”

Since the landmark 1973 Roe v. Wade High Court ruling, Planned Parenthood v. Casey (1992) permitted states to impose their own restrictions to abortion access – at least 400 instances so far.

They include shutting down clinics providing abortions on the phony pretext of protecting women’s health.

Lower court rulings at times successfully challenged state-imposed restrictions. So did the Supreme Court in Whole Woman’s Health v. Hellerstedt (2016).

In a 5 – 3 ruling, the Court struck down two Texas laws restricting abortion, Justice Kennedy siding with the majority.

Kavanaugh replacing him, if confirmed, would shift the High Court’s balance against retaining Roe as the law of the land.

Numerous states have legislation prepared to enact, abolishing a woman’s right to choose if the Supremes overturn Roe.

A GOP-controlled Congress could ban abortions legislatively, following a High Court ruling against it.

Kavanaugh’s judicial history shows he’s on the wrong side of numerous issues just societies cherish.

Net Neutrality is a key one, what digital democracy is all about, the last frontier protecting it, what Trump wants eliminated.

His FCC voted to kill it, enabling cable and telecom giants to establish toll roads or premium lanes, charge extra for speed and free and easy access, control content, as well as stifle dissent and independent thought – transforming the Internet into another corporate-controlled swamp of disinformation and fake news if the ruling isn’t challenged and overturned.

If the issue reaches the High Court, Kavanaugh’s opinion could be decisive. He opposes Net Neutrality.

In a May 2017 DC Court of Appeals dissent, he said the

“net neutrality rule is one of the most consequential regulations ever issued,” calling it “unlawful and must be vacated.”

He argued that restricting ISP actions intruded on their “editorial discretion,” claiming it violated their First Amendment protections – while ignoring this protection for all US citizens as constitutionally mandated.

In November 2015, he argued that government metadata collection (mass surveillance) “is entirely consistent with the Fourth Amendment,” claiming that it doesn’t constitute “unreasonable” searches – siding with Big Brother intrusiveness, ignoring the right of privacy.

Following his nomination, Kavanaugh fooled no one, saying he’d “keep an open mind in every case...and...will always strive to preserve the Constitution of the United States and the American rule of law” – as he interprets it, he failed to explain.

Will undemocratic Dems go all-out to block Kavanaugh’s appointment, or will they pretend outrage, then cave in the end?

Will Dems fail to have two GOP senators side with them against Trump’s SCOTUS nominee?

Will the nation’s High Court be transformed into a hard-right body for the next generation if Kavanaugh is confirmed, serving privileged interests exclusively over equal justice for all?

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