

## **THE DANGERS OF BRETT KAVANAUGH'S APPOINTMENT FOR COMMUNITIES OF COLOR**

### **Background**

Judge Kavanaugh is anti-immigrant and against the self-determination of an individual to decide what is best for their body with dignity and justice

- **Judge Kavanaugh's record on immigration cases have undoubtedly showcased his malicious belief that undocumented immigrants do not have constitutional rights.**
  - In September 2017, Judge Kavanaugh wrote an extremist legal argument opposing the court's decision in the case of *Garza v. Hargan*, a case where the federal government sought to prohibit Jane Doe, an undocumented young woman, who was in the Office of Refugee Resettlement custody from seeking an abortion. Even after the court granted the young woman access to an abortion, Judge Kavanaugh openly pushed back against that decision demonstrating his opposition to abortion.
  - In a 2008 labor law dispute, *Agri Processors vs. NLRB*, Kavanaugh was the only judge that sided with the company, arguing that the Agri Processors union election was void because undocumented immigrants had voted in it and "tainted" the result. Following the legal dispute, ICE raided and arrested nearly 400 undocumented workers in an Agri Processors meat-packing plant, resulting in many of the workers' deportations despite having endured abusive work conditions and wage theft. Kavanaugh's dissent illustrates that if it were up to him, immigrant workers would continue to be exploited by employers as he does not believe they have protections under U.S. labor laws.
  - In the 2014 *Fogo de Chao Inc. v. Department of Homeland Security* case, Judge Kavanaugh opposed granting special visas for Brazilian workers with specific culinary skills using "America First" language and claiming that immigrant workers displace U.S. workers.
  
- **Judge Kavanaugh's dissent in *Garza* shows that if confirmed, he would be a further threat to abortion access in the U.S.**
  - Abortion access for Latinas in the U.S. is already dire, but if *Roe v. Wade* was overturned, the situation would be even worse.
  - Women with low-incomes, Latinas, women of color and young women will be disproportionately impacted post-Roe.
  - Black women, young parents, undocumented people, LGBTQ people, people earning low incomes, rural and underserved communities have always faced barriers to health care, including abortion care.
    - Millions of women in underserved communities currently lack access to abortion care, and are already living in a post-Roe world.
  - If Roe were to be overturned, 17 states have laws that could be used to restrict the legal status of abortion, of which 4 states have laws that automatically ban abortion.
    - We have seen how laws that were designed to shut down clinics have decimated our community's access to abortion care, and are still forcing women to travel long distances for the care they need.
    - Abortion access means that each of us is able to make our own decisions about abortion, wherever we live and however much we earn. Even now, many Latinas are excluded.
    - Undocumented immigrant women, many of whom cannot travel for fear of detention and deportation, have even fewer options.
  - With today's political climate, preserving women's reproductive rights continues to be an uphill battle and we cannot afford to lose any more ground.
    - For many Latinas, especially those who are living with low-incomes, are uninsured, or underinsured, *Roe v. Wade* is an abstract concept with little bearing on their reality.

Judge Kavanaugh has ruled against access to contraception and the Affordable Care Act (ACA or “Obamacare”)

- **Judge Kavanaugh’s record has demonstrated that if he is confirmed to the Supreme Court, he would be a vote to overturn or gut critical health care protections.**
  - In a 2015 case, *Priests for Life v. HHS*, Judge Kavanaugh supported allowing employers to deny their employees birth control coverage based on their religious or moral beliefs, allowing an employer’s personal beliefs to infringe on a person’s private medical decisions.
- **Judge Kavanaugh laid a roadmap for Justices to rule against the ACA.**
  - In 2011, the D.C. Circuit upheld the constitutionality of the Affordable Care Act in *Seven-Sky v. Holder*. However, Judge Kavanaugh dissented, arguing that the President could ignore the courts and the law and “decline to enforce” the ACA. His dissent is also an indication of his troubling views on presidential power.
  - Judge Kavanaugh has openly criticized Chief Justice Roberts for his decision to uphold the ACA.

### Talking Points

- Judge Kavanaugh has a dangerous judicial record and, if appointed, will have a devastating impact on immigrants, communities of color, women’s health and the LGBTQ community.
  - Judge Kavanaugh has repeatedly ruled against contraception coverage, the Affordable Care Act (ACA), and abortion access, including a young immigrant woman’s right to legal abortion care.
  - His lengthy and egregious judicial record shows that he is a threat to *Roe v. Wade*, undocumented individuals, and access to reproductive health care services.
- If appointed as a Justice, Judge Kavanaugh’s hostile record demonstrates that he will have negative impact on communities of color for generations to come and guarantee our highest court leans conservative on all judicial rulings.
- For communities of color, the struggle for justice goes further than protecting *Roe*. Recent Supreme Court cases is testament to what is at stake. We need to know that a Supreme Court Justice will uphold all constitutional rights of communities of color.
- We know exactly how Kavanaugh will rule on important pending immigration cases such as the upcoming case on the legality of the Trump’s upending of the DACA program for Dreamers, because we know his record on past immigration cases where he undoubtedly showcased his belief that undocumented immigrants do not have constitutional rights.
- Kavanaugh believes immigrant workers are taking “American jobs” and undocumented immigrants do not have constitutional rights. Further, he insinuated that undocumented women in federal government custody are asking for favors by seeking abortions. This absurd line of thinking must not make it to the Supreme Court.
- For Latinas and women of color, who already face significant barriers to their legal right to abortion and access to contraception, Kavanaugh’s nomination is a pressing threat to our health and safety.
- Lack of health insurance and overall poverty are significant obstacles that jeopardize the reproductive health and well-being of Latinas. For decades, Latinas have been the most uninsured racial and ethnic group and any threats to the ACA will only exacerbate the health inequities and barriers to health care.
- Kavanaugh has been openly hostile towards the ACA and as we see relevant cases on the ACA, Medicaid, Medicare and other health care programs climb towards the Supreme Court, it is critical to have a judge that will uphold these life-saving programs and laws.