

# The Smearing Of Brett Kavanaugh Is Truly Evil

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Mollie  
Hemingway

Maybe Brett Kavanaugh is a gang-raping attempted murderer who managed to live a public life of acclaim and honor. Maybe the devotion to his wife and two daughters, his respect for countless women and their careers, and his wisdom on the bench are parts of an elaborate plot to get away with it. Anything is possible.

By Mollie Hemingway  
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But the idea that the country should convict him and destroy his life with no evidence other than **recovered** and **uncorroborated** memories and creepy porn lawyer Michael Avenatti's **say-so** is quite insane.

President Donald Trump, who was elected by people who cared deeply about fighting the progressive takeover of the courts, nominated Brett Kavanaugh to fill Anthony Kennedy's seat. D.C. establishment figures on the right revere Kavanaugh, and praise his extensive judicial record. Before meeting with him or holding hearings, most Democratic senators said they planned to vote against

him.

The hearings ricocheted from interesting discussions of judicial philosophy to clownish "**I am Spartacus**" moments and radical abortion protesters screaming about their love of killing unborn children.

Only upon completion did Democratic Sen. Dianne Feinstein release news that she'd sat on a claim of sexual assault for six weeks. The media then began running with uncorroborated and disputed allegations ranging from Christine Blasey Ford saying she thought Kavanaugh was trying to rape her and might kill her to Avenatti suggesting that Kavanaugh is a gang raper.

Republicans on the Judiciary Committee — in part thanks to Sen. Jeff Flake, cowering in the face of a smear campaign — bent over backwards to accommodate the first accuser, no matter how outlandish her requests to delay the hearing. As was easily predictable, the media and other resistance

members put forth additional claims — somehow even less substantiated than the initial one — as the days passed.

This all has political significance, but let's take a step back and think through the ethics of destroying a man without evidence to warrant it.

## Standards Of Evidence Must Be Kept High

We have rules for evidence in our court rooms that provide excellent guidance in the general culture. One of these is that the burden of proof is not on the accused but the accuser. First the accuser presents his or her case, buttressing it with all the evidence at hand. Then the accused responds to the accusation using the evidence he or she has. It is easy to make an allegation but difficult to prove one. This is as it should be.

Our Founding Fathers were well aware of the danger posed by people throwing accusations against political enemies. The **Sixth Amendment to the U.S. Constitution** does a good job of explaining some of the rights of the accused in our political system:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Kavanaugh isn't facing criminal prosecution in part because his accusers have come nowhere near the standard required for criminal prosecution. And senators predisposed to vote against him are not the definition of an impartial jury. That does not mean disputed allegations should form the basis of destroying a man's life, career, and reputation. It also does not mean that a precedent should be established of allowing the left to weaponize use of disputed allegations to thwart the seating of justices.

## Journalists Should Not Engage In Mob Justice

No profession has as high a self-conception as journalism. And yet in recent weeks, in an environment where they are accused of being partisan activists instead of truth tellers, they have dropped their standards somehow even further.

Presumably out of a shared belief that the sacrament of abortion might be threatened by a second Trump nominee serving on the court, some in the media are running multiple stories based on reputation-destroying allegations that have not come close to meeting a journalistic standard.

The New Yorker's laughably disreputable Jane Mayer and previously well-regarded Ronan Farrow wrote up a story claiming that a progressive activist recovered a memory of sexual assault only after being prodded by Senate Democrats to do so. Even The New York Times — which doesn't have a sterling track record when it comes to running with wild accusations — interviewed dozens of people in an attempt to corroborate the allegation and was not able to do so. They found that the accuser Deborah Ramirez had recently told classmates she could not be certain Kavanaugh was the man who she says exposed himself to her.

Journalism can and should be an important check on declining standards. Instead of demanding that accusers make reasonable cases, they are helping them overcome the flaws in their own stories in an effort to defeat a Supreme Court nomination.

## Are Our Senators All Children?

Democratic senators announced at the outset of the Kavanaugh nomination that they would do what it took to **stop him**. They have held to their word, believing that any means necessary is morally defensible.

Republican senators, however, seem to lack the discernment to understand when they're getting played by people who hate them and want them destroyed.

It's not just that they're losing a political battle, but that they're allowing Democrats and the media to destroy a man and his family for political gain. There is no virtue in allowing a man to be smeared without evidence.

## Wielding Political Power Morally

When President Barack Obama nominated Merrick Garland in the closing months of his presidency, Senate Majority Leader Mitch McConnell invoked the Biden Rule, named after the former senator's view that Supreme Court vacancies in the waning months of a presidency should be filled after the election. It was the use of raw political power, even one with precedent, and it angered Democrats. That anger is at least defensible.

But thank God that Republicans didn't kill the Garland nomination by tearing down the man and spending months trying to find high school classmates to claim attempted rape and near-death experiences.

At some point one must consider whether evil means are justified for progressive ends. The bottom line is that this media-enabled Democratic smear campaign simply can't be the standard by which we destroy people. Watching this miscarriage of justice is radicalizing those who care about rule of law and political processes that have a semblance of sanity.

*Mollie Ziegler Hemingway is a senior editor at The Federalist. Follow her on Twitter at [@mzhemingway](https://twitter.com/mzhemingway)*