Opinion



U.S. Supreme Court nominee Judge Brett Kavanaugh is sworn in to testify before a Sept. 27 Senate Judiciary Committee hearing on Capitol Hill in Washington. Kavanaugh followed Professor Christine Blasey Ford, who testified about her accusation that he sexually assaulted her in 1982, a claim he vehemently denied. (CNS /pool via Reuters/Jim Bourg)



by Michael Sean Winters

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As I write this, it is far from clear that Judge Brett Kavanaugh will ever make it on to the U.S. Supreme Court. The testimony given by Dr. Christine Blasey Ford Thursday was incredibly damning. It is hard to imagine how she could have seemed more credible. She remembered key facts of the evening of the alleged sexual assault and, when she was not able to recall something, she did not fake it. Not to put too fine a point on it, but she did not overcompensate as did Kavanaugh when he insisted in a television interview that he was a virgin throughout high school and into his college years.

In addition to Ford's compelling testimony, the accusations of sexual misconduct made by other women, though not officially a part of the congressional record, have left an impression on the public. At this stage, waiting for a vote by the Senate Judiciary Committee and then the full Senate, but with the possibility of Kavanaugh's name being withdrawn at any moment, what can we deduce about how the political landscape has shifted?

The most immediate consequence of the confirmation battle will be felt in November's midterm elections. In a nutshell, whichever party wins the confirmation battle will likely be punished by voters for it in five weeks. Why? Because angry voters are more likely to actually turn out and vote than contented voters, especially in a midterm election. Up until now, all but one sign have been pointing to a Democratic wave, with Democrats more enthusiastic about voting than Republicans, Independents leaning towards Democrats, and the GOP's strongest issue, the economy, an issue that never really matters unless times are bad. The one exception? Donald Trump is in the White House, and we do not know if he will have coattails his predecessors lacked. No one predicted he was going to win the election in 2016. His base of support may show up this year, too, even though Barack Obama's and George W. Bush's never did. Trump, who stands astride all of American politics as no president has done since Franklin Delano Roosevelt, or maybe even Abraham Lincoln, may yet inspire his allies as much as his enemies.

Already, the confirmation battle has had an impact on midterm voting expectations, with the percentage of Democrats saying the Supreme Court is a very important issue in deciding how they will vote ticking up a whopping 19 percentage points since 2016. The prospect of *Roe* v. *Wade* being overturned has ignited Democratic concerns, just as the prospect of its maintenance has long motivated Republicans. Kavanaugh's repeated, and I suspect dishonest, statements about the landmark abortion ruling were meant to take the issue off the table, but I don't think anyone believed him. Certainly the pro-life groups that continue to support his nomination did not believe him.

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If Trump is as smart, he should ditch Kavanaugh and blame the Democrats. Nothing would rile up the conservative base more, and make it more likely he can keep the subpoena power out of the Democrats' hands.

A more lasting consequence of this confirmation battle is that George W. Bush's famous defense of allegations he was a wild young man — "When I was young and irresponsible, I was young and irresponsible" — will no longer cut it. To be clear, in Bush's case, there were never specific allegations of sexual misconduct, only rumors of unspecified drunken misbehavior and probably drug use or at least experimentation. In the future, nominees to the bench and for political office will be grilled about any sexual misconduct, even committed as a teenager.

It is still shocking that the country elected Trump, even after listening to the Access Hollywood tapes in which he described sexual conduct in such a degrading way. I may never fully understand how that happened. Normal politicians and judicial nominees can't insult war heroes or those with physical handicaps as Trump did either. Going forward, Kavanaugh will be the standard, not Trump.

The #MeToo movement, though always seized with obvious political significance, had not previously become so intertwined with partisanship. It is hard to see how the Republican Party gets on the right side of the issue of sexual misconduct after this. It would have helped if they had thought to put a woman on the Judiciary Committee! Four of the Democrats on the committee are women. I do not know what effect this will have on the GOP or, perhaps more importantly for the culture, what effect it will have on the #MeToo movement. I always think efforts to really change the culture,

such as the pro-life movement or the civil rights movement, are most effective when they are bipartisan, when they are seen to transcend normal political categories. That is not always possible.

For Catholics, this whole episode raises a disturbing question about our church's continued involvement in providing elite education to affluent children. It is surprising that Democrats have not hurled the word "elite" at the nominee, but how can they? They send their kids to these elite schools, too. If even half the things alleged about the behavior of these Georgetown prep boys are true, then they brought a whole new meaning to the phrase "men for others." Is anyone surprised that these elite schools would produce young men who conduct themselves towards women — or others — in such high-handed ways because they can? Because they know they are on the right trajectory? They attended elite high schools to prepare themselves for elite universities to prepare themselves for elite careers. Why shouldn't a precocious 17-year-old boy think he can have his way with women when he is being told all day, every day that he can have his way with the world, that he is being groomed to be a master of the universe?

I understand that the Society of Jesus has a long tradition of educating the children of the cultural elites. It made sense to do so in the 16th century. I am a thousand-percent confident that these elite schools they run contain many wonderful teachers and students who are not putative monsters. I do not doubt that the education they provide is first-rate and that they may even allow some poor students access to an education their family could not afford. But it is time for new wine and new wineskins. The Society should think long and hard about how this mission of educating elites dovetails with the mission assigned to all Christians by our founder, to announce good news to the poor.

This is a fast-moving story. As I write these words, it appears that Senate Majority Leader Mitch McConnell remains intent on pushing the nomination through. It is not clear he has the votes. It is not clear Trump still supports his nominee. Writing about politics these days is precarious because you worry by the time you finish a sentence, some new development will have destroyed your analysis. This much will not change: After years upon years of women having to put up with horrific treatment at the hands of men, women are pushing back, and that push will alter our political and social and cultural landscape in ways large and small. Like most cultural developments, the movement will be in fits and starts, with setbacks and advances here or there, but it is as inexorable as the waters of the Mississippi.

Justice Clarence Thomas escaped the flood. Donald Trump escaped the flood, at least so far. But, it appears Mr. Kavanaugh is drowning.

[Michael Sean Winters covers the nexus of religion and politics for NCR.]

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