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**LDF Objects to the Confirmation of Supreme Court Nominee Judge Amy Coney Barrett,
Releases Report Outlining Objection**

Today, the NAACP Legal Defense and Educational Fund, Inc. (LDF) announced its objection to the confirmation of Judge Amy Coney Barrett, President Donald Trump's nominee to replace the late Justice Ruth Bader Ginsburg on the United States Supreme Court. A report outlining the organization's objection to the process undertaken by the President and the Senate since the death of Justice Ginsburg, and the stakes of this confirmation for core civil rights protections, accompanied the statement opposing Judge Barrett's confirmation. Judge Barrett's confirmation hearing before the Senate Judiciary Committee began earlier today.

For over 30 years, LDF has prepared a detailed report outlining the civil rights implications of the background, judicial philosophy, and judicial record of Supreme Court nominees. LDF prepared such reports when President Trump nominated then-Judges Neil Gorsuch and Brett Kavanaugh to the court. The circumstances of Judge Barrett's nomination are starkly different and LDF approached the preparation of its report and its decision to oppose Judge Barrett's confirmation within the unique context in which it arises.

"This process should not occur until the next president has been inaugurated and the next session of Congress has been seated in January 2021," said Sherrilyn Ifill, LDF's President and Director-Counsel. "The fact that the United States Senate is prepared to rush through a confirmation hearing and vote to fill a Supreme Court vacancy while millions of voters are engaged in early voting and casting absentee votes, and less than one month before the general election for the President and for Senate seats across 34 states – one in which millions of ballots have already been cast – is an unconscionable political power grab. It taints the process, the nominee, and the legitimacy of the Supreme Court.

The troubling record of Judge Barrett makes the prospects of this confirmation even more objectionable. From voting rights to affirmative action, to health care and abortion rights, the record and judicial philosophy of Judge Barrett constitutes a threat to the protection of core civil rights. Our report outlines the gravity of our concerns about this process and Judge Barrett's judicial record."

The report reflects three primary themes: 1) the illegitimacy of Judge Barrett's nomination and confirmation process; 2) the damaging impact of a potential Barrett confirmation on this country's trajectory, including its implications for civil rights; and 3) Judge Barrett's concerning judicial record. Report highlights from each of these areas are reflected below.

Illegitimacy of the Nomination and Confirmation Process

- President Trump’s nomination of Judge Barrett during a pandemic and in the middle of an election in which nearly six million Americans have already cast their ballots is an unprecedented power grab that jeopardizes the integrity of the Senate, the court, and the rule of law.
- Indeed, when President Obama nominated Chief Judge Merrick Garland to replace the late Justice Antonin Scalia in March 2016, Senate leadership refused to consider the nominee because, in their view, the vacancy arose too close to the presidential election — then over six months away — and the American people should have an opportunity to have their voices heard before the Senate considered a new Supreme Court justice. If these concerns were valid in 2016, then they are even more valid now.
- President Trump has actively sought to undermine this election and refused to commit to the peaceful transfer of power if he loses. A president who does not respect the rule of law should not be appointing a judge to the institution charged with enforcing the rule of law amid a general election that he is seeking to undermine.

The Damaging Effects of a Potential Barrett Confirmation on Civil Rights

- The stakes of this nomination could not be higher for racial equality and civil rights in this country. The Supreme Court is already far more conservative than it has been at any point in modern history and it is bitterly divided on key issues.
- The United States has already witnessed a great erosion of civil rights protections, including those related to voting rights, affirmative action, and fair housing. Moreover, this country has also contended with repeated abuses of executive authority targeting people of color and immigrants. Indeed, many of these issues will be before the court this term.
- On five separate occasions, Judge Barrett was a paid speaker of the Alliance Defending Freedom, an organization designated as a hate group by the Southern Poverty Law Center as a result of its support for the recriminalization of sexual acts between consenting LGBTQ adults in the U.S. and criminalization abroad; defense of state-sanctioned sterilization of transgender people abroad; and its contentions that LGBTQ people are more likely to engage in pedophilia. In addition, Judge Barrett, in a 2016 speech, contended that Title IX of the Civil Rights Act, which also prohibits discrimination on the basis of sex, does not protect transgender persons from discrimination because, in her view, “no one . . . would have dreamed of that result” at the time the law was enacted.

Judge Barrett’s Concerning Judicial Record

- Judge Barrett's writings, speeches, and sign-ons raise grave concerns about her fidelity to precedent and the rule of law, including core civil rights protections.
- Although many have described Judge Barrett as being in the mold of Justice Scalia, her judicial philosophy is even more extreme than that of Justice Scalia.
- Judge Barrett has advocated for a concerning approach to following judicial precedent (otherwise known as “stare decisis”) and has described constitutional stare decisis as especially weak. She believes judges should generally decide cases as they see fit, rather than based on reliance interests or other stare decisis considerations – a notion which places longstanding civil rights protections in grave danger.
- Judge Barrett’s adherence to an extreme version of constitutional originalism, a doctrine which purports that the Constitution should be interpreted based on its understood meaning at the time of ratification, appears to be fundamentally

inconsistent with the Fourteenth Amendment's express commitment to equal citizenship under law.

- The judge's writings suggest that, although she considers *Brown v. Board* a "super precedent," she believes it may have been incorrectly decided in accordance with her interpretation of originalism. Judge Barrett has also suggested that, while she does not think it would ever be invalidated by a court, the Fourteenth Amendment may also be "possibly illegitimate."
- Her understanding of originalism as potentially justifying the illegitimacy of the Fourteenth Amendment — and her continued adherence to the doctrine nonetheless — raises deep concerns about her fitness to serve on the nation's highest court. Without this amendment, Congress would lack the power to enforce civil rights laws, and Americans would be stripped of their rights under many constitutional provisions, including the rights to free speech and freedom of religious expression.

Read LDF's full report on Judge Amy Coney Barrett [here](#).

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Founded in 1940, the NAACP Legal Defense and Educational Fund, Inc. (LDF) is the nation's first civil and human rights law organization. LDF has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights. LDF's Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the NAACP Legal Defense Fund or LDF.