



March 9, 2017

RE: Demos Urges Senators to Oppose Judge Gorsuch's Confirmation to the U.S. Supreme Court

Dear Senator:

Demos is a public policy organization working for an America where we all have an equal say in our democracy and an equal chance in our economy. We write to urge you to reject President Trump's nomination of Judge Neil Gorsuch to a lifetime appointment on the nation's highest court.

With the Supreme Court split four-to-four on so many critical topics, the stakes could not be higher. Judge Gorsuch has gone out of his way to support the wealthy and powerful over the rest of us, often breaking with his appellate court colleagues to do so.¹ On issues ranging from Wall Street accountability to workers rights to criminal justice, he would move the country backwards.²

Here, Demos highlights one important issue that requires rejection of President Trump's nominee: Judge Gorsuch's troubling record on money in politics and his potential to be the deciding vote to gut our few remaining protections against big money dominating our democracy.

The next Supreme Court justice will have a pivotal role in ensuring our Constitution protects the rights and voices of all Americans. For four decades, the Court's flawed approach to money in politics has shredded a series of common-sense protections against the power of special interests and wealthy individuals, and shaped a system where the size of our wallets determines the strength of our voices.³

¹ Alicia Parlapiano & Karen Yourish, ["Where Neil Gorsuch Would Fit on the Supreme Court,"](#) THE NEW YORK TIMES (February 1, 2017); Elliot Mincberg, [The Dissents of Judge Neil Gorsuch: Far to the Right and Out of the Mainstream,](#) PEOPLE FOR THE AMERICAN WAY (February 2017).

² [The Gorsuch Record,](#) ALLIANCE FOR JUSTICE (February 2017).

³ Adam Lioz, [Breaking the Vicious Cycle: Rescuing our Democracy and Our Economy by Transforming the Supreme Court's Flawed Approach to Money in Politics,](#) DEMOS (December 2015).



The public is deeply concerned about the impact of concentrated wealth on our democracy and understands the role of the Court. Ninety-four percent of voters believe that the power of big money in politics is a problem, and ninety percent say that the Supreme Court plays an important role in setting the rules.⁴ In fact, 85% of Americans believe we need fundamental changes to our system for funding political campaigns.⁵

We need a ninth justice who understands that a true democracy cannot elevate big money over the voices of ordinary people and who will be open to reasonable limits that protect the rights and influence of all Americans. The vast majority of Americans agree – including 91 percent of Trump voters.⁶

Unfortunately, Judge Gorsuch’s record on money in politics have convinced us that he will not be the type of open-minded justice we need to rescue our pro-democracy Constitution.

In the two directly relevant cases Judge Gorsuch faced, he voted to expand First Amendment rights for corporations and went out of his way to signal openness to applying the harshest possible standard of review to campaign contribution limits.⁷ Taken together, these opinions suggest that Judge Gorsuch would be receptive to attacks on our few remaining protections against big money—specifically the current bans on “soft money” contributions to political parties and corporate contributions directly to candidates.⁸ Please see the accompanying fact sheet for more details.

In a world where Judge Gorsuch forms a majority block of pro-big money justices, large corporations and wealthy individuals would enjoy virtually unlimited ability to translate their economic might into political power. Our legislatures and other elected offices will become

⁴ [The Supreme Court and Money in Politics: Survey Topline Findings](#), HATTAWAY COMMUNICATIONS (January 2017).

⁵ Nicholas Confessore & Megan Thee-Brenan, [“Poll Shows Americans Favor an Overhaul of Campaign Financing.”](#) THE NEW YORK TIMES (June 2, 2015).

⁶ [The Supreme Court and Money in Politics: Survey Topline Findings](#), HATTAWAY COMMUNICATIONS (January 2017).

⁷ [Judge Gorsuch’s Extreme Views Could Undermine Urgently Needed Money-in-Politics Reforms](#), DEMOS & CAMPAIGN LEGAL CENTER (January 31, 2017).

⁸ Richard L. Hasen, [“Why Gorsuch could lead court in wrong direction.”](#) CNN.COM (March 1, 2017).



even more skewed by race and class; policy will become even more tilted towards the preferences of the white, wealthy donor class; and people of color and working families across the nation will continue to fall behind economically and be alienated politically.⁹

Judge Gorsuch's troubling record on money in politics and other issues is sufficient reason to oppose his confirmation. But in these extraordinary times there is an additional concern: we are not convinced that Judge Gorsuch has the requisite independence to stand up to President Trump when necessary to protect our democracy and communities.

From the unconstitutional Muslim travel ban to direct attacks on our independent judiciary to deliberate attempts to undermine respect for freedom of the press and the very concept of the truth, we face a new, alarming threat from the Trump Administration every day. An independent judiciary is more critical than ever in this context. Yet, Judge Gorsuch has shown troubling deference to unfettered executive power, and Trump's advisors have assured his supporters that Gorsuch and Trump "support each other."¹⁰

For all of these reasons, Demos urges you to do everything in your power to defeat Judge Neil Gorsuch's confirmation to the U.S. Supreme Court—including applying a 60-vote threshold for moving to a final vote.

Put simply, Judge Gorsuch has not shown sufficient commitment to our constitutional values of liberty, equality, and justice for all to earn Demos' support, or yours.

Sincerely,

Heather McGhee, President
Brenda Wright, Vice President of Policy & Legal Strategies
Adam Lioz, Counsel and Senior Advisor for Policy & Outreach

⁹ Adam Lioz, [*Stacked Deck: How the Racial Bias in our Big Money Political System Undermines Our Democracy and Our Economy*](#), DEMOS (2014).

¹⁰ *Planned Parenthood Association of Utah v. Herbert*, 839 F.3d 1301 (10th Cir. 2016); Paul Gordon, "[Judicial Independence Does Not Equal Crumbling Under Trump's Pressure](#)," PEOPLE FOR THE AMERICAN WAY (February 10, 2017).