



**Washington, D.C.
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October 26, 2020

U.S. Senate
Washington, DC 20510

Re: MALDEF Opposition to Confirmation of Judge Amy Coney Barrett to the
U.S. Supreme Court

**National
Headquarters
Los Angeles
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634 S. Spring Street
Los Angeles, CA 90014
Tel: 213.629.2512

Dear Senator:

I write to urge you to vote against the confirmation of Judge Amy Coney Barrett to the United States Supreme Court. MALDEF is a 52-year-old civil rights legal organization that strives to promote the civil rights of all Latinos living in the United States. The confirmation of Judge Barrett is a clear threat to our mission. The process followed by the Senate in its obscene rush to confirm the latest nominee from a president with little respect for the Constitution and our democracy violates the integrity of the Supreme Court. Moreover, the foreshortened review has failed to resolve the serious questions raised by Judge Barrett's record and testimony. These substantial issues should cause the Senate to reject this nomination.

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Confirming a justice to the Supreme Court only eight days prior to a presidential election violates the norms of a constitutional democracy. The attempt to fill a vacancy created by the death of a sitting justice less than six weeks before a presidential election is wholly inconsistent with precedent and with the Senate's constitutional obligation to provide "advice and consent" to any nomination to the Supreme Court. In its apparently politically-motivated haste to confirm any nominee, leadership has shown a cavalier disregard for Senate rule and protocol; this should embarrass anyone who purports to believe in following the original intent of Constitutional framers. Those who ratified the Constitution plainly anticipated the risk of political rivalry and of crass political gamesmanship in service of that political contention, but they put in place measures to avoid the worst aspects of such behavior, while counting on basic fairness and national political norms to prevent other shenanigans.

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Any veneer of legitimacy for such a transparent departure from precedent established over many nominations and in direct contradiction of the position taken by the Senate a mere four years ago seems to come from an apparent zeal for seating a judge with a particular jurisprudential philosophy. Unfortunately, the irony of senators rushing to confirm an originalist jurist by running roughshod over political norm and discernable original intent is lost on those who are single-mindedly seeking to pack the Supreme Court in apparent anticipation of a monumental electoral loss in November.

Broken precedent and political norm, as well as the abundant disrespect for democracy and original intent, are a serious and long-term threat to the integrity of the United States Supreme Court. In an era when too many in positions of authority demonstrate disrespect for the court system -- questioning judges' integrity based on nothing but their racial background, demonizing judges based on outcomes without regard for their reasoning -- the Senate should be wary of any action that would portray the Supreme Court as little more than a partisan tool. The confirmation of any nominee on the current schedule will have consequences for public and political perception of the Court, and will invite a counter-reaction that may further the damage to the Court's reputation.

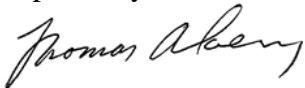
The unprecedented and unsupportable nature of the Senate's conduct should not escape the notice of Judge Barrett. She has stood by and done nothing as senators undertook in her name sharp practices that are anti-democratic and plainly inconsistent with the Senate's constitutional duty. Her own integrity as a potential justice has been irreparably harmed by her silent acquiescence. Whether driven by personal ambition or ideological zeal, active complicity in violation of national political norms and constitutional imperative should disqualify anyone from service on the nation's highest Court.

Moreover, any nominee who participates in such a truncated confirmation process should at the very least demonstrate greater candor in responding publicly to questions and requests for information. Instead, Judge Barrett has set a new nadir in confirmation politics by her refusal to acknowledge even the most basic and seemingly incontrovertible facts and principles with respect to civil rights, discrimination, and basic human rights. A nominee who eschews candor on such basic matters should not be confirmed without substantial further inquiry.

Finally, one fundamental flaw in the Senate's consideration of Judge Barrett has been the complete failure to elicit her awareness and knowledge of legal issues faced by Latinos, our nation's largest minority group for seventeen years, who now comprise nearly one-fifth of all United States residents. As recent Supreme Court's recent terms already indicate, the growing Latino community will become a central element of increasing numbers of the Supreme Court's cases in the next two decades, the likely tenure of any Supreme Court nominee. Our nation can no longer afford to blithely overlook the prominence of the Latino community in evaluating potential justices, and further inquiry on these issues is prerequisite to confirming any Supreme Court nominee.

MALDEF urges a "No" vote on the confirmation of Judge Amy Coney Barrett to the United States Supreme Court, and support for a postponement of consideration of any nominee until electoral outcomes can be appropriately respected.

Respectfully,



Thomas A. Saenz
MALDEF, President and General Counsel