

## **Kavanaugh case is darkest hour for #MeToo**

By Janet Albrechtsen, The Australian, 10 September 2018

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What do you call a movement with no leader, no mission and a bandwagon as big as the internet? A mess. We have come to know it as #MeToo. A year on, and following the Brett Kavanaugh debacle, the #MeToo movement deserves a quiet burial. Its tombstone should read: The Presumption of Innocence Matters.

Remember that next time someone claims that Donald Trump is ushering in a Trumpocracy. With no evidence apart from an occasional blast at fake news, critics have long claimed that the US President is upturning “democratic norms”. If Trump is re-elected in 2020, “the savaging of liberal institutions will increase”, says Francis Fukuyama, the political scientist who famously — and wrongly — predicted that liberal democracy would mark the end of political history.

It turns out that progressives are doing far more to trash democratic principles than Trump. In the end, the failed attempt to keep Kavanaugh off the US Supreme Court bench was a sensational trial, not about allegations of sexual abuse or judicial character but of the Left’s commitment to democratic principles.

Progressives have been found guilty on all counts: trashing the presumption of innocence, disregarding the rule of law and turning their backs on due process.

Claims against the conservative judge never saw the inside of a courtroom for a reason. His accuser, Christine Blasey Ford, could not recall important details of that night when, she claimed, the judge attempted to undress her as a teenager. But progressives tried and convicted him on the basis of one vague testimony, minus a single corroborating witnesses.

Democrats cast aside the presumption of innocence as a disposable nuisance. During their daily television gabfests, CNN stars such as Jake Tapper and Anderson Cooper didn’t rate the presumption of innocence either.

*Time* magazine ran a cover story last week which read “How Christine Blasey Ford’s Testimony Changed America”. The cover art was immediately lauded by everyone from former ABC managing director Mark Scott to BBC correspondent Nick Bryant. Scott went further saying: “I hope she has a lasting impact.”

The lasting impact won’t be what Ford said about a drunken party she attended when she was 15. The lasting impact is best explained by the fact a lengthy article about the Ford v Kavanaugh face-off did not once mention the core principle of a civilised society: that a man accused of sexual assault is entitled to the presumption of innocence. The lasting impact is that this omission went unremarked by people who should know better. The enduring damage is that the #MeToo movement has removed the presumption of innocence as a legal and a moral norm.

In its Friday email, the National Organisation for Women said: “We. Will. Stop. Kavanaugh.” The biggest cheerleaders of #MeToo backed Ford all the way, tossing aside the presumption of innocence.

What a difference politics makes. In 1998 following allegations that Bill Clinton had sex with Monica Lewinsky, NOW president Patricia Ireland said: “None of us believes that a charge made is a charge proven.” Ireland said that Clinton’s policies were enough to stop them from rushing to judgment. She described Clinton as a “complex human being with strengths and flaws — I think (this) helps shore him up”. Back then, feminists were falling over themselves to excuse the US president’s foul behaviour towards a young intern barely two months out of college. The 1970s feminist Erica Jong said of Clinton: “I want a president to be alive from the waist down.” Trump must be waiting for a similar leave pass from the sisterhood.

The lasting impact of the Kavanaugh show trial is not the predictable hypocrisy of feminists. That is a mild irritant compared with their recent rejection of fundamental principles that a civilised people choose to govern themselves by.

On Saturday, while discussing Kavanaugh’s commitment to the constitution, a left-leaning lawyer and writer for *The New Yorker*, Jeffrey Toobin, waved away the rule of law as some kind of “abstract” notion not worth discussing. He may as well have waved off that bit in article 40 of the Magna Carta that says “to none shall we deny justice”, a principle embedded in the US constitution.

The mauling of legal principles by progressives during the Kavanaugh saga shows that undemocratic behaviour begets more of the same. When a handful of judges invented a constitutional right to abortion in 1973 rather than leaving it to legislatures and the people to decide this issue, they cemented a precedent that goes beyond the judgment in *Roe v Wade*. They set in motion a precedent that core legal principles in a democracy can be trashed to serve political agendas.

When Trump nominated a conservative judge who many imagine will overturn *Roe v Wade*, progressives threw out the democracy rule book. Their deliberate ignorance of the presumption of innocence, the rule of law and due process is far more dangerous than anything Trump has done.

Some will say the presumption of innocence was never going to get an airing in a show trial conducted on TV talk shows, in newspapers, on radio, across social media, in a Senate Judicial Committee hearing, on the streets of Washington, DC, even in the corridors of Capitol Hill as screaming women accosted senators to deliver a No vote against Kavanaugh. But the presumption of innocence should have mattered regardless of the forum. If other institutions, be it the media or universities or congressional hearings, give up on a central tenet in a democracy, how can we expect jurors in court to stick with the same principle?

Trump was only partly right to say that it was a scary time for young men. The bigger danger is that a civilised society stops being civilised when the presumption of innocence is trashed by politics and a muddled hashtag campaign.

The sign of these dangerous times was told, unwittingly, when a recent cover story in *The Economist* said the #MeToo movement “could be the most powerful force for equality since women’s suffrage”.

Women’s suffrage confronted serious injustices and fought for equal rights for men and women. The #MeToo movement has displayed remarkable moral confusion, not just conflating

a night of bad sex with rape but also casting aside young men who have alleged that older women have sexually abused them. That is not equality.

The #MeToo moment arrived with pitch-perfect timing into a world of identity politics and a broader social justice movement predicated on different rights and rules for different people. Identity politics up-ends the rule of law and the presumption of innocence using the blunt instrument of power. Those deemed to have power, especially white men such as Kavanaugh, are the first to lose their fundamental rights. But when one group loses rights, it is an inexorable lesson from history that others will too.

The Left has become so untethered from democratic norms that it has abandoned even Noam Chomsky, who once warned against the contraction and abandonment of the presumption of innocence.

While the Kavanaugh lynching ultimately failed, the enduring damage after a year of #MeToo is that progressives now believe in taking down 10 innocent men so they can catch one guilty man. If they haven't noticed, that is what authoritarians do.

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