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## SCOTUS Confirmation Process Should Focus on Judicial Qualifications Rather Than Turning Into a Game of Scoring Denigrating Points

The country deserves a confirmation process for Judge Jackson that is incisive and informative. Americans will have a crucial opportunity to watch the interplay of difficult dynamics that include politics, bias, and entrenched institutions.

By **Lauren Stiller Rikleen** | March 02, 2022



Judge Ketanji Brown Jackson speaks after President Joe Biden announced Jackson as his nominee

to the Supreme Court in the Cross Hall of the White House, Friday, Feb. 25, 2022, in Washington. Vice President Kamala Harris listens at right. Photo: Carolyn Kaster/AP

When President Joe Biden selected Ketanji Brown Jackson as his nominee for the U.S. Supreme Court, he was choosing among a pool of candidates whose qualifications provided an [embarrassment of riches](#). The question now, however, is whether the confirmation process will become a national embarrassment.

By all measures, the Senate has been handed an easy opportunity for bipartisan support of an extremely qualified candidate. In any normal environment, Jackson's confirmation would be a pro forma moment that allows the country to get to know the justice, learn of her extraordinary background, and provide an easy opportunity to prove that Democrats and Republicans can work together. Moreover, Jackson recently underwent Senate scrutiny when she was confirmed to sit on the U.S. Court of Appeals for the D.C. Circuit.

But these are no ordinary times and there is no basis for expecting that reason will prevail in a Senate that has specialized in oppositional politics. As a result, the confirmation process is in danger of turning into a national embarrassment where, yet again, the Senate may demonstrate that up is down and right is wrong.

Much of Jackson's background [reads](#) like the prototypical resume for a Supreme Court justice. As a graduate of Harvard College and Harvard Law School, she would join a bench on which only one justice did not receive a law degree from Harvard or Yale. Many of her post-law school jobs have followed the path of skill-building that would provide vital training to a justice sitting on the highest court in the land. She capped prestigious clerkships at the U.S. District Court and Court of Appeals with a Supreme Court clerkship for the justice she would replace, Stephen Breyer. And she has rich litigation experiences in top law firms.

But these impeccable credentials will be reviewed in the context of a growing denigration of expertise and education. Already, there has been grumbling that the Supreme Court is too elite and that experiences from [outside the Ivy League](#) may now be important qualifiers for sitting on that court. And significantly, some of the recent decisions from the current Supreme Court further feed the proposition that education and expertise can be cast aside to [achieve the objectives](#) of dismantling administrative government.

If expertise is no longer valued in an atmosphere where broad civil rights and social justice gains that have been achieved over the past decades are at significant risk, then it becomes easier to dismiss the deep expertise of this eminently qualified nominee.

Paradoxically, Jackson's background also includes an expertise that has not existed on this court for 50 years—service as a criminal defense lawyer. Yet if recent experiences before the Senate Judiciary Committee are predictive, Jackson will be attacked for providing a constitutional right to a defense to those accused of a crime. Just recently, U.S. District Court for the Eastern District of New York nominee Nina Morrison faced an [“embarrassingly ill-informed”](#) attack for her work on behalf of the Innocence Project, which seeks to free prisoners wrongly convicted of crimes. Committee members impugned this work as responsible for driving higher crime rates, rather than recognizing that crime rates will not go down if the innocent are convicted and those guilty of the crime are never prosecuted.

In the weeks ahead, Jackson will be navigating the [double standard and entrenched biases](#) that emerge when a minority candidate is considered for a high-profile role. In particular, Black women have long felt the impacts that follow from the [intersectionality](#) of two biases: racism and sexism. By elevating the first Black woman to the Supreme Court, the president offers an opportunity to educate the nation about how women and girls of color have faced racial disparities throughout history. Today, however, we are more likely to see conversations about diversity dismissed as an intrusion that harms the majority culture, rather than embraced as a positive goal and a teaching moment.

The country deserves a confirmation process for Jackson that is incisive and informative. Americans will have a crucial opportunity to watch the interplay of difficult dynamics that include politics, bias and entrenched institutions. Media coverage of the hearings as though they are sporting events in which questioners “score points” would diminish us all.

Ideally, we should be watching for a Senate process that gets to the heart of the nominee’s credentials and her judicial philosophy. And we should be wary—and quick to call out—any aspect of the process that strays from that goal.

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