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October 4, 2018

Re: Nomination of Brett Kavanaugh to the US Supreme Court

Dear Senator,

We urge you to vote no on appointing Judge Brett Kavanaugh to the United States Supreme Court.

Human Rights Watch has previously raised serious concerns about Judge Kavanaugh's nomination, noting that his judicial record suggests his presence could tip the court's balance in a way that could erode protections for a range of fundamental human rights.¹

This is the first time Human Rights Watch has opposed the appointment of a US Supreme Court justice. We have taken this unprecedented step for the following reasons. Credible concerns, based in part on the testimony of Dr. Christine Blasey Ford under oath before the Senate Judiciary Committee, have been raised about whether Judge Kavanaugh committed at least one sexual assault in 1982, and allegations continue to circulate that he may have committed other sexual misconduct.²

Rather than engage meaningfully with Senators' questions on those matters, Judge Kavanaugh sought to dismiss the concerns out of hand, which signaled a lack of understanding of the importance of a fair airing of the alleged harm suffered and of respect for the human dignity of alleged victims. Judge Kavanaugh demonstrated little understanding that inquiries into whether a US Supreme Court nominee engaged in sexual assault is a matter to which senators and witnesses must give their serious attention—both for the future of the court and for the message the process sends about the basic rights of millions of survivors of sexual assault and to future victims.

During his testimony Judge Kavanaugh also made several apparently false statements about material matters—including asserting that he was of legal drinking age when the sexual assault is alleged to have occurred;³ apparently mischaracterizing his drinking behavior throughout his youth, including during the years when Dr. Blasey Ford's and other alleged incidents are said to have occurred;⁴ and asserting that several individuals

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¹ Human Rights Watch, "Key Rights at Stake: Brett Kavanaugh's Nomination to the US Supreme Court," August 21, 2018, <https://www.hrw.org/news/2018/08/21/key-rights-stake-brett-kavanaughs-nomination-us-supreme-court>.

² Ronan Farrow and Jane Mayer, "Senate Democrats Investigate a New Allegation of Sexual Misconduct, from Brett Kavanaugh's College Years," *New Yorker*, September 23, 2018, <https://www.newyorker.com/news/news-desk/senate-democrats-investigate-a-new-allegation-of-sexual-misconduct-from-the-supreme-court-nominee-brett-kavanaughs-college-years-deborah-ramirez> (accessed October 4, 2018).

³ Alanna Durkin Richer, "As a teen, Kavanaugh was never a legal drinker in Maryland," *AP News*, September 28, 2018, <https://apnews.com/e4a48c01f3bf4094b9faea33cd049729> (accessed October 4, 2018).

⁴ See, for example, Emily Bazelon and Ben Protess, "Kavanaugh Was Questioned by Police After Bar Fight in 1985," *New York Times*, October 1, 2018, <https://www.nytimes.com/2018/10/01/us/politics/kavanaugh-bar-fight.html>; The New York Times, "Chad Ludington's Statement on Kavanaugh's Drinking and Senate Testimony," *New York Times*, September 30, 2018,

Dr. Blasey Ford said were present at the party where her assault occurred denied that the assault happened.⁵ These apparently false statements give rise to larger concerns about his veracity under oath.

Finally, while it was important and laudable that,⁶ after leadership provided by key members, the Senate committee called for an FBI investigation, we are concerned that investigators did not speak with either the alleged perpetrator or victim, and reportedly did not speak to multiple individuals who have reported publicly that they had knowledge relevant to the allegations against and veracity of the testimony provided by Judge Kavanaugh.⁷

Some supporters of Judge Kavanaugh seem to believe he should be confirmed unless it can be proven beyond a reasonable doubt that he engaged in sexual assault or perjury. Serving on high court is not an entitlement, however. There remain serious reasons to believe the nominee committed a sexual assault, failed to evidence an understanding of the importance of a full airing of the alleged harm suffered, and was untruthful under oath. Human Rights Watch urges senators to vote “no” on Brett Kavanaugh’s nomination to the US Supreme Court.

Sincerely,



Nicole Austin-Hillery
Executive Director, US Program
Human Rights Watch



Kenneth Roth
Executive Director
Human Rights Watch

<https://www.nytimes.com/2018/09/30/us/politics/chad-ludington-statement-brett-kavanaugh.html> (accessed October 4, 2018); Mike McIntire, Linda Qiu, Steve Eder and Kate Kelly, “At Times, Kavanaugh’s Defense Misleads or Veers Off Point,” *New York Times*, September 28, 2018, <https://www.nytimes.com/2018/09/28/us/politics/brett-kavanaugh-fact-check.html> (accessed October 4, 2018).

⁵ Ibid.

⁶ “US Senate: Halt US Supreme Court Nomination Vote,” Human Rights Watch news release, September 26, 2018, <https://www.hrw.org/news/2018/09/26/us-senate-halt-us-supreme-court-nomination-vote-o>.

⁷ According to news reports, investigators interviewed six to nine individuals and did not interview Judge Kavanaugh, Dr. Blasey Ford, or other individuals who have stated publicly that they have knowledge relevant to the allegations. See, for example, Erin Kelly, “Who did FBI interview in its investigation of Supreme Court nominee Brett Kavanaugh,” *USA Today*, October 2, 2018, <https://www.usatoday.com/story/news/politics/onpolitics/2018/10/02/brett-kavanaugh-allegations-fbi-investigation-interviews/1496288002> (accessed October 4, 2018); Greg Sargent, “Here’s A List of People the FBI Did Not Interview. Okay with this Flake and Collins?,” *Washington Post*, October 4, 2018, https://www.washingtonpost.com/blogs/plum-line/wp/2018/10/04/heres-a-list-of-people-the-fbi-did-not-interview-okay-with-this-flake-and-collins/?utm_term=.37754fb99ac6 (accessed October 4, 2018).