

# People view judicial figures previously accused of sexual misconduct as a threat to women's rights



*With the US Supreme Court likely to soon announce its decision to overturn the *Roe v. Wade* decision, in a new study, [Melissa N. Baker](#) and [Kayla S. Canelo](#) look at how previous accusations of sexual misconduct toward judges might affect the public's perception of their ability to rule on issues related to women's rights. They find that people perceive judges who have been previously accused of sexual misconduct are more of a threat to the rights of women, and that only women felt that such judges would be less likely to rule fairly on women's rights cases.*

Any day now, the US Supreme Court will announce its decision on *Dobbs v. Jackson Women's Health Organization*, a [case with potential to overturn \*Roe v. Wade\*](#) and *Planned Parenthood v. Casey*. A highly publicized [leaked draft](#) of the opinion suggests the Court is ready to overturn the guarantee of abortion rights, with Justice Alito stating, "We hold that *Roe* and *Casey* must be overruled." While much of the focus has understandably been on the impact of a conservative Court in influencing public opinion, another dimension is at play. Two of the sitting Supreme Court justices joining Alito's majority opinion (Thomas and Kavanaugh) were openly accused of sexual misconduct during their confirmation hearings. When Justice Kavanaugh was confirmed in 2018, concern was expressed that his position on the Supreme Court would be a threat to the rights of women because of allegations of sexual assault. The Women's March organization said his confirmation hearings, "[will be seen by women as a war on survivors of sexual assault](#)," suggesting that continued attacks on women were imminent.

Our research addresses whether such allegations influence people's perceptions of whether women's rights are jeopardized when people with such accusations are considered for positions of judicial power. How does the public view controversial judges in their professional capacity, especially on women's rights? We find that people who read about a nominee who has been accused of sexual misconduct viewed the nominee as a bigger threat to the rights of women than people who read about a nominee who had not. Additionally, women viewed nominees accused of sexual misconduct as less able to rule fairly on cases involving the rights of women, a finding that did not extend to male respondents.

## How accusations of sexual misconduct affect perceptions of a judge's fairness in women's rights cases

In a preliminary experiment with 919 young adults in the United States, we presented participants with biographies of hypothetical judicial nominees. Some participants read about a nominee who has been accused of sexual misconduct and some read about a nominee who has not been accused of sexual misconduct. The nominees were otherwise the same. After reading the biographies, we ask participants two questions: 1) If the nominee poses a threat to the rights of women and 2) If the nominee would rule fairly on matters related to women's rights. Nominees who were accused of sexual misconduct were viewed as a bigger threat to women's rights than nominees who were not accused of sexual misconduct. Participants who are women, but not men, indicated that nominees accused of sexual misconduct would be less able to rule fairly on cases involving women's rights compared to nominees who had not been accused.



*"Believe Women Vs Kavanaugh" (CC BY-SA 2.0) by Mobilus In Mobili*

Figure 1 below shows responses to the first question, whether the nominee poses a threat to the rights of women. The bar on the left represents the male judge who was not accused of sexual misconduct, while the bar on the right represents a male judge who was accused of sexual misconduct. Those who read about an accused judge were more likely to state he was a threat to women's rights compared to those who read about an unaccused judge.

**Figure 1 – Accused vs. unaccused judge on whether they're a threat to the rights of women**

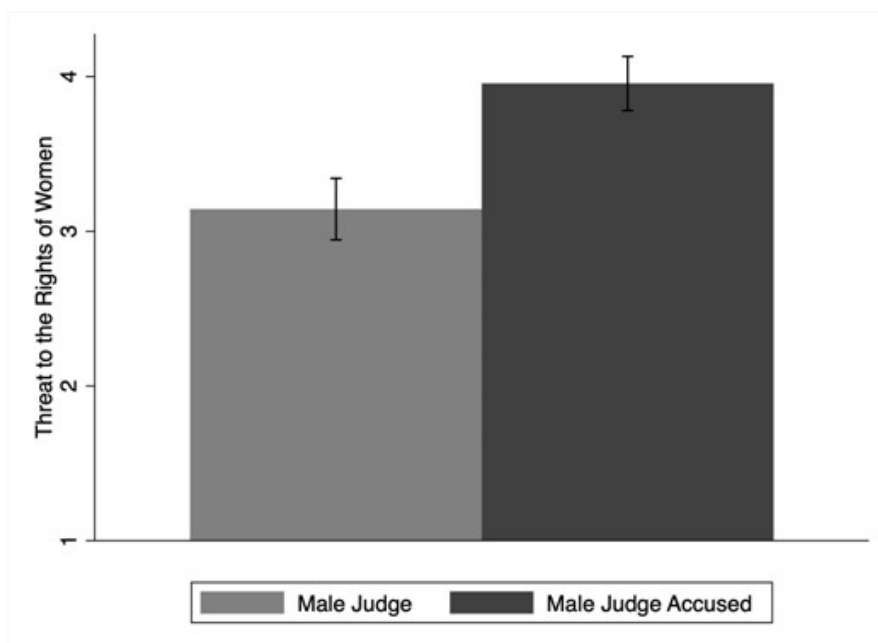
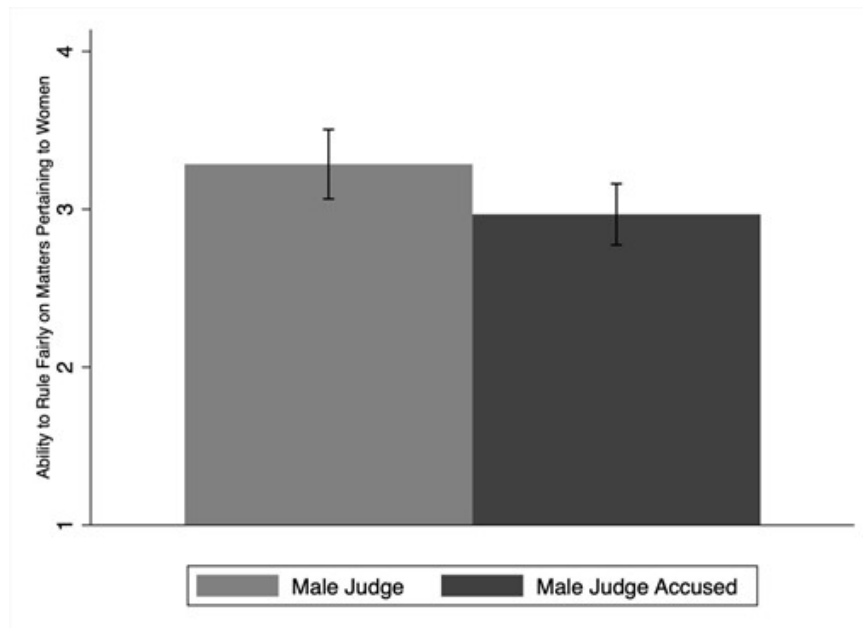


Figure 2 below includes women participants' responses to the second question mentioned above, whether the judge can rule fairly on matters pertaining to women. Here is where we see gendered differences among respondents. Figure 2 demonstrates that women respondents who read about the accused judge claimed he would be less able to rule fairly compared to those who read about the unaccused judge. We did not find any differences between male respondents who read about the accused judge and those who read about the unaccused judge. While both genders claimed the accused judge would be a threat to the rights of women (Figure 1), Figure 2 suggests there are gendered differences in *why* this might be the case.

**Figure 2 – Accused vs. unaccused judges' ability to rule fairly on matters pertaining to women, women respondents only**



## Misconduct allegations can affect support for the Supreme Court's decisions

Our research suggests that the public anticipates rulings that limit the rights of women from embattled political figures. i.e., they view decisions such as *Dobbs* as another slight to women instead of a decision based solely on constitutional considerations. Further, our work demonstrates gendered differences in how misconduct allegations taint the legitimacy of specific people and institutions in politics.

In tandem with prior research that has found the public is more supportive of judicial decision-making that is [grounded in the law](#) as opposed to [personal circumstances](#), our research also has implications for public opinion fallout post-*Dobbs* decision. If the public does view Justices as a threat to the rights of women because of their personal histories and sees a *Dobbs* ruling that overturns *Roe* and *Casey* as an extension of their personal histories, the public will be less supportive of the decision.

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*Note: This article gives the views of the author, and not the position of USAPP – American Politics and Policy, nor the London School of Economics.*

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