Climate Denial, Dismissal of Climate Science Have No Place On Nation’s Highest Court

On the heels of Judge Amy Coney Barrett’s deflection of questions about climate change, the chief counsel of Juliana v. United States -- the only constitutional climate case that could head to the U.S. Supreme Court next year -- has proffered a list of crucial follow-up questions for Senators to ask during Barrett’s confirmation hearings.

On Day 3 of her Senate confirmation hearing, Judge Barrett offered this response to Sen. Richard Blumenthal (D-CT) when asked about climate change: “I don’t think that my views on global warming or climate change are relevant to the job I would do as a judge.”

At Our Children’s Trust -- the world’s only nonprofit public interest law firm dedicated exclusively to securing the legal rights of youth to a healthy atmosphere and safe climate -- we vehemently disagree.

“We expect lifetime jurists on our nation’s highest court to understand and respect what is overwhelmingly established scientific fact: Climate change is real, it is catastrophic, and it is caused by human activity, primarily burning fossil fuels. The science of climate change has been well understood by scientists since the mid-1800s and confirmed by the U.S. government since at least the 1960s,” says Julia Olson, who leads Juliana and other litigation across the country to protect the rights of young people to a safe and stable environment.

In an exchange with Senator Kamala Harris, Judge Barrett was asked whether she believed that COVID-19 was infectious, whether smoking causes cancer, and whether climate change is real. Here is part of their exchange:

Harris: “Do you believe climate change is happening and is threatening the air we breathe and the water we drink?”
Barrett: “… You have asked me a series of questions, like, that are completely uncontroversial like whether COVID-19 is infectious, whether smoking causes...
cancer, and then trying to analogize that to eliciting … an opinion from me that is on a very contentious matter of public debate and I will not do that. I will not express a view on a matter of public policy, especially one that is politically controversial because that’s inconsistent with the judicial role as I have explained.”

While legislative and policy responses to addressing climate change have often been contentious, the scientific fact of climate change itself is not. It is not a matter of public debate, much less scientific debate. Climate change is established science, supported by overwhelming consensus.

Alongside the world’s governments, scientists, physicians, children, businesses, and faith leaders, Pope Francis just this week said that science tells us every day “that urgent action is needed … if we are to keep the hope of avoiding radical and catastrophic climate change. And for this we must act now. This is a scientific fact.” In *Laudato Si* and more recently in *Fratelli Tutti* the Pope has said that climate change is the most serious issue facing humanity.

“Judge Barrett needs to clarify her opinion on and understanding of climate science and whether she would respect expert scientific evidence in cases before her,” Olson stresses. “Contrary to what her responses at the hearings suggest, Supreme Court Justices don’t just interpret the law, and they don’t avoid hearing cases on issues they might view as being contentious; instead they apply law to the facts and evidence, even when it involves complex areas of science.”

The public deserves Judge Barrett's honest and full opinions on the science of climate change and how she would treat scientific evidence. There are many COVID-19 cases working their way through the courts, including Religious Freedom Restoration Act cases challenging governmental COVID-19 policies that could come before her -- and yet Judge Barrett had no problem answering questions about the scientific reality of COVID-19. The same should be true for the scientific reality of climate change.

America deserves judges who have respect for science and credible scientific evidence in cases before the Court. The Supreme Court is a lifetime appointment -- and climate change is the most important issue of our lifetime. Therefore, we are urging the Senate Judiciary Committee to ask Judge Barrett to fully clarify her understanding of climate change, and to commit to recognizing established climate science in any cases which she would potentially hear as a Supreme Court Justice, so that members of the Senate may make an informed decision when voting on her nomination.
We recommend that Senators include these questions pertaining to climate science and children’s rights to their questions for the record to be answered by Judge Barrett.

Judge Barrett said Wednesday that part of her reason for proceeding with her nomination is "to protect our institutions and protect the freedoms and protect the rule of law that’s the basis for the society and the freedom that we all enjoy … for our children and our children’s children." We need answers on whether this protection includes children’s rights to fair and informed trial where scientific evidence will be presented and to a safe and stable climate.

We respect and applaud the vigilance of the Fourth Estate to hold public officials accountable to the American people, and we ask that you continue to pressure Senators for answers from Judge Barrett.

Julia Olson, chief counsel for Juliana v. United States, is available to answer any questions and discuss the work Our Children’s Trust is doing on behalf of the children who are current and future victims of climate change. She can be reached at 415.786.4825 or julia@ourchildrenstrust.org.

Our Children’s Trust is a nonprofit public interest law firm that provides strategic, campaign-based legal services to youth from diverse backgrounds to secure their legal rights to a safe climate. We work to protect the Earth’s climate system for present and future generations by representing young people in global legal efforts to secure their binding and enforceable legal rights to a healthy atmosphere and stable climate, based on the best available science. We support our youth clients and amplify their voices before the third branch of government in a highly strategic legal campaign that includes targeted media, education, and public engagement work to support the youths’ legal actions. Our legal work – guided by constitutional, public trust, human rights laws and the laws of nature – aims to ensure systemic and science-based climate recovery planning and remedies at federal, state, and global levels. www.ourchildrenstrust.org/