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Meet the Conservative Activist Who Plays Critical Role in Supreme Court Picks

Leonard Leo, a leader in the Federalist Society, advocates for unflinching conservatives, and he has Trump's ear

By *Jess Bravin*

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Leonard Leo, executive vice president of the Federalist Society, plays a strongly influential role in the recommendation of conservatives for the bench—including for the Supreme Court. PHOTO: CAROLYN KASTER/ASSOCIATED PRESS

WASHINGTON—A few weeks before handing in his resignation, [Supreme Court Justice Anthony Kennedy](#) talked about judicial vacancies with the man assigned to find his successor.

It was Leonard Leo, the Federalist Society leader upon whom President Donald Trump relies when it comes to picking judges, most prominently Neil Gorsuch, the former Kennedy clerk appointed last year to the Supreme Court.

The occasion was the wedding of former Kennedy law clerk Nicholas Quinn Rosenkranz, a Georgetown University law professor. Guests included other alumni

of Justice Kennedy's chambers, among them Judge Brett Kavanaugh of the District of Columbia Circuit, now on Mr. Trump's short list to replace his old boss.

"We had a good conversation about having judges appointed to the court of appeals and the district court," Mr. Leo said. "He was very proud to be among his former law clerks."

Mr. Leo added, "And for the record, he did a really good job on the dance floor."

Mr. Leo, 52 years old, who has bachelor's and law degrees from Cornell, has never been a judge, held significant public office or run a legal practice. He has instead spent nearly his whole career at the Federalist Society, the lawyers' network established during the administration of former President Ronald Reagan to groom conservative scholars, officials and judges.

Today, Mr. Leo stands poised to install an unflinching conservative in the seat once intended for Judge Bork—the one now relinquished by Justice Kennedy, who was a compromise candidate able to clear the Democratic-held Senate. Although by nature conservative, [Justice Kennedy's maverick approach](#) led him to reach accommodation with liberals on issues like abortion rights and capital punishment.

In the 1990s, Mr. Leo took aim at the American Bar Association's decades-old role in vetting potential nominees before they were publicly announced. The effort bore fruit when President George W. Bush eliminated the ABA's privileged status. The Bush administration saw a flowering of the Federalist Society's influence, with the group's members and sympathizers taking important government positions and providing the pool of candidates for the bench.

As the society's executive vice president, Mr. Leo had tracked many young lawyers as they matured, assessing the ideological consistency and the rigor they brought to legal interpretation.

Even under Mr. Bush, however, Mr. Leo saw near-misses. Conservatives recoiled at the Supreme Court nomination of Mr. Bush's White House counsel, Harriet Miers.

Although a longtime personal attorney for Mr. Bush, Ms. Miers never had been a judge or law professor. Conservative legal activists feared she might be open to upholding *Roe v. Wade*, the 1973 case recognizing abortion rights, or other liberal arguments.

Under pressure from the right, Ms. Miers's nomination was withdrawn, and a Third Circuit judge admired in Federalist Society circles, Samuel Alito, was appointed instead. For Mr. Leo, the lesson of the Miers episode was to require that nominees come with a clear record on how they approach the law. "Stealth nominees are not fashionable anymore," he said.

If Mr. Leo was important to the Bush administration, he has made himself indispensable to Mr. Trump, observers say.

While outsiders often have been consulted for advice on nominations, "their advice was quite frequently ignored," said David Yalof, a political scientist at the University of Connecticut, who described Mr. Leo's strong influence over the current process "truly unprecedented."

A longtime friend, the Princeton legal philosopher Robert George, said Mr. Leo has all the attributes to play such a part, including that "he knows everybody in the conservative legal world." Mr. Leo also is a master of discretion, Mr. George says, in a world where "there are very few people you can trust with a real secret."

Beyond that, "what makes him tick is his faith," Mr. George said. A devout Roman Catholic and a father of seven, Mr. Leo "perceives himself as having a vocation in life, not just a job." And he has been effective in part because he takes his opponents' arguments seriously. He "knows people who think differently and knows why they think the way they do," Mr. George said. "

Mr. Leo has carefully researched the methods progressives used to shape the national debate and win political battles in earlier eras, studying books by liberal scholars and activists, including 1978's "Poor People's Movements," by Frances Fox Piven and Richard A. Cloward.

“He’s a very savvy player,” said Pamela Karlan, a Stanford law professor and board chairman of the American Constitution Society, founded in 2001 as a progressive counterforce to the Federalist Society.

In terms of influence, no one on the liberal side of the fence compares; “There isn’t, there won’t be, and there probably shouldn’t be,” she said. “If you believe in inclusion and fairness, it’s hard to have a hierarchical process that operates through one person.”

Besides, Ms. Karlan said, ideological purity tests may be effective in the short run, but “it’s hard to predict what your movement will want 45 years from now.”

Harry Blackmun, who President Richard Nixon appointed in 1970 with the goal of unmaking Chief Justice Earl Warren’s liberal legacy, “wasn’t asked a single question about abortion at his hearings,” Ms. Karlan said. Three years later, he wrote the majority opinion in *Roe v. Wade*.