Testimony of the National Organization for Women on the Nomination of Samuel Alito

Submitted January 18, 2006

On Tuesday, January 24, the members of the Senate Judiciary Committee will cast a historic vote to fill the Supreme Court seat currently held by the first woman justice of the U.S. Supreme Court, Sandra Day O'Connor.

In 1981, NOW testified for the confirmation of Justice O'Connor because, although she was undoubtedly conservative, we believed that she had demonstrated respect for individual rights and equal opportunities. Although we have disagreed many times with her opinions, she has supported our right to be free from harassment at school and discrimination at work, the right to privacy in our homes and our reproductive decisions, the right to an equal education for girls and women, and the value of diversity in our society.

After a thorough examination of his 15-year record on the bench, and 18 hours of committee hearings, NOW is convinced that Samuel Alito would take the Court, and our lives, in a very different direction. For that reason, the National Organization for Women is unequivocally opposed to the confirmation of Samuel Alito as an Associate Justice of the U.S. Supreme Court.

Samuel Alito urged us to determine what kind of Justice he would be by looking at the kind of judge he has been. And in more than 300 decisions, he established a pattern of narrowing many of the civil rights, environmental and employment protections enacted by the Congress, such as the Family and Medical Leave Act and laws against sex discrimination and sexual harassment. In his writings, he made it clear that he believes many forms of birth control are "abortifacient," and that he would be a strategic architect of the overturn of *Roe v. Wade*. In his answers to more than 700 questions, Judge Alito said nothing to assuage our concerns.

What we do know is that he has a consistent record of favoring the rich over the poor, corporate interests over consumers, employers over and employees, and government over the individual -- and he reaches for procedural justifications to ensure that the "little person" does not get his or her day in court. He favors establishment of religion, and he opposes affirmative action which has been the vehicle for advancement for multitudes of women and people of color.

Let it be on the record that a confirmation of Samuel Alito will undermine much of the progress for which our nation is justifiably proud – for individual liberty, for civil rights and for women's rights.

The president nominates justices to the Supreme Court and the Senate is charged with a co-equal responsibility to decide whether to consent to those nominees. We call on the 18 members of this committee to take your role in our democratic balance of powers seriously, and not simply rubber-stamp George W. Bush's choice for the High Court.

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It is unacceptable for Senators to confirm a judge whose record so clearly shows that he would enshrine a right-wing agenda for generations to come. Samuel Alito is the wrong judge at the wrong time for women and for the country.

Respectfully submitted,

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Dear Senator,

NOW is strongly opposed to the elevation of Judge Samuel Alito to the Supreme Court of the United States, and with every passing day more information appears that reconfirms our opposition. We urge you to review his record, writings and judicial philosophy and join us in opposing his nomination.

Not only is NOW disappointed that President Bush has proposed to replace Justice Sandra Day O'Connor with yet another white male ultra-conservative, but we are deeply disturbed by the twenty-year track record that places Judge Alito on the far right of the judicial spectrum, especially when it comes to women's and civil rights. If Samuel Alito is confirmed by the U.S. Senate, many of our fundamental rights will be at great risk and could well be lost entirely.

A bedrock principle for NOW is full Constitutional rights for women and at the heart of that equality is self determination for women when they deal with their reproductive health care and childbearing decisions. When applying for a position in the Reagan administration in 1985, Alito stated he was "particularly proud" of his work on cases arguing "that the Constitution does not protect a right to an abortion." A memo released later shows that Alito told his boss that two pending cases provided an "opportunity to advance the goals of overruling Roe v. Wade and, in the meantime, of mitigating its effects." These are not the actions of someone simply trying to please his boss, but proud convictions that we have no reason to believe have altered in the past two decades.

Also troubling is his proud touting of his membership in a conservative Princeton alumni group that complained about the admission of women and the number of minority students on the elite college campus. How will Judge Alito deal with educational opportunity and Title IX? How will Judge Alito deal with pay equity and workplace policies as well as affirmative action and job benefit issues that disproportionately affect women? How will Judge Alito deal with challenges to federal legislation guaranteeing disability rights, lesbian and gay rights, and freedom from domestic and sexual violence? We believe he will rule on the side of narrowing our freedoms and barring our redress in court.

Please consider all of these issues as you review Samuel Alito's fitness to serve on our highest court in the land. Based on his record, he will not come down on the side of fairness and equality for all. We ask that you vote against his nomination.

Sincerely,

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