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UNITED METHODIST CHURCH
GENERAL BOARD OF CHURCH AND SOCIETY
GENERAL BOARD OF GLOBAL MINISTRIES, WOMEN'S DIVISION
CAUCUSES/ORGANIZATIONS
CATHOLICS FOR A FREE CHOICE
CHURCH OF THE BRETHREN WOMAEN'S CAUCUS
DISCIPLES FOR CHOICE
EPISCOPAL URBAN CAUCUS
EPISCOPAL WOMEN'S CAUCUS
LUTHERAN WOMEN'S CAUCUS
METHODIST FEDERATION FOR SOCIAL ACTION
PRESBYTERIANS AFFIRMING REPRODUCTIVE OPTIONS
YWCA OF THE USA
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CONSERVATIVE JUDAISM
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WOMEN'S LEAGUE FOR CONSERVATIVE JUDAISM
HUMANIST JUDAISM
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NORTH AMERICAN FEDERATION OF TEMPLE YOUTH
UNION OF REFORM JUDAISM
WOMEN OF REFORM JUDAISM, THE FEDERATION OF TEMPLE SISTERHOODS
WOMEN'S RABBINIC NETWORK OF THE CENTRAL CONFERENCE OF AMERICAN RABBIS
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AMERICAN JEWISH CONGRESS
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HADASSAH, WZOA
JEWISH WOMEN INTERNATIONAL
NA'AMAT USA
NATIONAL COUNCIL OF JEWISH WOMEN
WOMEN'S AMERICAN ORT
AMERICAN HUMANIST ASSOCIATION
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AMERICAN ETHICAL UNION
NATIONAL SERVICE CONFERENCE OF THE AMERICAN ETHICAL UNION
UNITARIAN UNIVERSALIST
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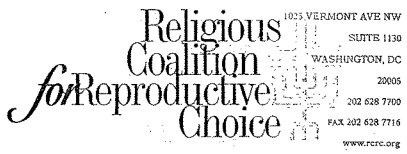
UNITARIAN UNIVERSALIST WOMEN'S FEDERATION
YOUNG RELIGIOUS UNITARIAN UNIVERSALISTS



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Senator Patrick Leahy
433 Russell Senate Office Building
Washington, DC 20510

July 26, 2005

Dear Senator Leahy:

On behalf of the 39 national religious organizations that are members of the Religious Coalition for Reproductive Choice, I am writing to express concern regarding the lack of information about the views of U.S. Supreme Court nominee Judge John G. Roberts on the issue of abortion rights. We urge you as a member of the Senate Judiciary Committee to ensure that there is a thorough, independent review of Judge Roberts' constitutional philosophy to determine his views on this issue. While it is inappropriate to ask any nominee to discuss future cases, legal authorities and others agree it is appropriate to question a nominee about the philosophical views he may hold on underlying issues such as privacy rights.

Our primary concern is the conflicting statements made by Judge Roberts about the *Roe v Wade* decision. In 1991, while serving as deputy solicitor general, Judge Roberts argued in *Rust v. Sullivan* for the constitutionality of the regulation that prohibits doctors and counselors at federally funded family planning clinics from providing abortion-related counseling and appropriate referrals. Although *Roe v. Wade* was not at issue in this case, Judge Roberts nevertheless commented that *the case* was "wrongly decided," did not have support "in the text, structure or history of the Constitution," and should be overturned. During his 2003 confirmation hearings for the U.S. Court of Appeals, Judge Roberts testified that he made the statement only as part of making a case for the administration and also said that the decision in *Roe* is "the settled law of the land." He further testified that there was nothing in his personal views that would prevent him "from fully and faithfully applying that precedent."

Given the polarization around the abortion issue, it is essential that Judge Roberts' philosophical views on this subject be clarified to strengthen confidence that the Court will protect the rights of all Americans. The following questions may help clarify his views:

Do you believe that there is a constitutional right to privacy that encompasses a woman's right to have an abortion?

If Roe v. Wade is settled law, what type of restrictions on abortion would be acceptable and constitutional under Roe v. Wade as it currently stands?

Will you be able to put aside your personal beliefs on the permissibility of abortion in determining cases dealing with abortion?

In addition, we are also concerned about the 1992 brief Roberts co-authored in the case *of Bray v. Alexandria Women's Health Clinic.* The brief argued against preventing protestors (including the leadership of the group Operation Rescue) from blocking entrances to women's clinics and said that the violent blockades were merely expressions of opposition to abortion. In 1993 and 1994, violence at women's

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clinics escalated; five individuals were murdered in those two years. In May 1995, President Bill Clinton signed the Freedom of Access to Clinic Entrances (FACE) Act. In this context, I urge you to ask the nominee:

Do you support federal protections for clinics at which abortions are provided?

The Supreme Court will hear two cases that will impact abortion rights in its next term (*Ayotte v. Planned Parenthood of Northern New England* and *NOW v. Scheidler*). A potential case —on the so-called "Partial Birth Abortion Ban" Act of 2003—is working its way through appeals courts. Even if the *Roe v. Wade* decision is not scaled back again, it is possible that additional restrictions on access to reproductive health services will be imposed, including restrictions on abortion in medical emergencies. Given these issues, it would be appropriate to ask the following:

Will you apply Roe v. Wade as written and interpreted?

Will you consider cases dealing with privacy issues on a pragmatic rather than ideological basis?

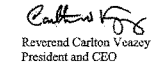
Do you think that religious freedom—that is, the freedom to worship as one chooses and to live according to one's religious beliefs—and abortion rights are compatible?

Again, I stress that it is essential to determine Judge Roberts' views on this issue before confirming him to a lifetime position on the U.S. Supreme Court in which he will have the authority to set precedent.

In conclusion, members of the Coalition firmly support the constitutional right of individuals to make reproductive decisions on the basis of their religious views and conscience. We urge you to ensure that the American public knows whether Judge Roberts, if confirmed to the Supreme Court, intends to stand by his statement that *Roe v. Wade* is "settled law" and what restrictions, if any he thinks may be allowed.

Thank you for your attention. If you would like additional information or have questions, please contact my office at 202-628-7700 ext. 12.

Sincerely,



Reverend Carlton Veazey
President and CEO