Ms. RIOS. Good morning. My name is Sara Rios and I speak here today on behalf of the Center for Constitutional Rights. The center is a civil rights organization, with a 24-year history of litigating constitutional issues to protect the rights of the poor and the oppressed, and to check excesses of government power.

Standing on that record, Senators, we urge you today to resoundingly reject David Souter's nomination to the Supreme Court.

Senators, the decision you are about to make is the single most significant decision to affect people's rights in decades. We believe that a consolidation of a conservative majority on the Court has seriously eroded individual rights, and that there is great danger that the U.S. Supreme Court will no longer stand as the insurer of equal justice for all.

With so much hanging in the balance, we urge you to focus on whether the nominee's life experience and legal record affirmatively demonstrate a concrete commitment to equal justice. You must apply a positive standard for justice and liberty, not a negative standard, framed around the ideological brashness of Robert Bork. You must apply a positive standard to reflect the role of the Supreme Court, as contemplated by the Bill of Rights and the civil rights amendments, that of a champion of minority rights over majoritarian oppression and inequitable legislation.

David Souter's history is clear, when it comes to civil rights: One need not look very deeply into his writings and the now famous literacy test case and title VII case, to see that Souter has no understanding of the experiences of people different from himself. It is outrageous and it is offensive to suggest that, after confirmation, David Souter visit an Indian reservation to raise his consciousness about racial diversity.

One need not look very deeply into his advisory opinion on gay and lesbian parenting, to see Souter's repressive traditionalism vis-a-vis the family and civil rights. We caution you to beware of the confirmation conversion which David Souter has skillfully tried to exhibit in the past few days. David Souter has succeeded in not answering most of your questions, but he has bandied about liberal rhetoric with great facility, as if the mere use of the words such as "privacy" and "affirmative action," or even his apparent support for *Miranda* rights, can undo 20 years of attacking civil rights from the bench and as attorney general.

Unfortunately, the debate about Judge Souter's fitness has been framed not by his record, but by a negative standard set by the nomination of Robert Bork. It is not enough that a nominee merely agree with the landmark *Brown* v. *Board of Education* decision, for example. A nominee must demonstrate nothing less than a lifelong commitment to an involvement in making this country a safe and welcoming environment for those who are most oppressed. David Souter has no such history.

Let us not think that this man is a friend of women's rights, because David Souter refers to marital privacy as a liberty. This is especially so, since he has not been pressed on its implications for marital rape and men's attempts to control women's reproductive freedom within marriage.

Let us not be fooled by his characterization of himself as a hired gun for the Governor, when he was attorney general. Our research

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shows unequivocally that the New Hampshire attorney general can play a role which is entirely independent from the Governor.

Let us not be fooled by David Souter's testimonial utterances that he abhors discrimination, when in the same breath he also said that there is no longer any discrimination in New Hampshire, a remark which bespeaks the insensitivity with which he has handled these issues throughout his career.

It is not enough for David Souter to simply deny that he ever referred to affirmative action as affirmative discrimination, when in his title VII brief he freely quoted from a book entitled "Affirmative Discrimination" to advance his arguments that the State should not be compelled to collect statistics for the EEOC.

Seventeen years after *Roe* v. *Wade,* it is untenable for David Souter to avoid stating his position on that landmark case, just as in 1971 it would have been unthinkable for a nominee to be uncertain or secretive of the wisdom of the 1954 *Brown* decision.

Moreover, it is unacceptable for a nominee to be uncertain of his feelings about cases he handled as attorney general in which he demonstrated particular disregard for civil rights.

Many vital cases will be decided soon by the Supreme Court. For example, the *Johnson Controls* case, a discriminatory employment policy directed against women in that case and masquerading as an occupational health policy, threatens to set a dangerous precedent for the elimination of women from the industrial workforce.

Additionally, the Court will no doubt address the recently passed Americans With Disabilities Act and the regressive sections of the McCarran-Walter Act, which exclude people from this country, simply on the basis of their political affiliations.

Most frightening, Senators, that Court will review your deliberations on the 1990 Civil Rights Act. Negative decisions in these cases will have dire and direct consequences on your constituencies and will have a disproportionate effect on people of color and the poor, signalling a retreat from progress and equal justice.

Senators, the U.S. Supreme Court is at a critical juncture. We submit to you that the current conservative majority on the Court—and David Souter, the nominee currently before you—are out of touch with the profound aspirations of people of color, of women, and of many others to attain the fundamental rights that are guaranteed them by the Bill of Rights.

The Senate possesses a grave duty to examine thoroughly the qualifications and mindset of this nominee to the Supreme Court. Because Judge Souter has betrayed himself in these hearings as a jurist whose positions are inimical to the Bill of Rights, we strongly urge you to reject him and to press for a nominee who stands tall enough to hold high the banner of equal justice. We urge you to take on this fight and to engage in this heroic battle. History will not forgive us if we do not try. Otherwise, it will be said that on the eve of the bicentennial of the Bill of Rights, you, the elected representatives of the people, forgot that freedom must be won anew, and by extraordinary efforts, in every generation.

[The prepared statement of Ms. Rios follows:]