



FIVE REASONS AAUW OPPOSES THE NOMINATION OF CLARENCE THOMAS TO THE U.S. SUPREME COURT

The American Association of University Women (AAUW), a national organization of 135,000 women and men committed to equity and education for women and girls, opposes the nomination of Judge Clarence Thomas to the U.S. Supreme Court. Judge Thomas' record as chair of the Equal Employment Opportunity Commission (EEOC) and his tenure as Assistant Secretary for Civil Rights in the Education Department raise grave concerns about his commitment to equal opportunity and provide examples of his failure to enforce federal law.

AAUW believes that the Senate must not confirm Judge Thomas' nomination to the Supreme Court for five reasons.

1. DISREGARD FOR THE LAW: As Chair of the EEOC, the federal agency charged with enforcement of employment discrimination law, Thomas showed a blatant disregard for the law of the land. He allowed more than 13,000 age discrimination complaints to lapse by failing to investigate them within the legal time limit. He failed to investigate large numbers of complaints alleging gender-based wage discrimination in violation of the Equal Pay Act and Title VII of the 1964 Civil Rights Act.

When Thomas headed the Education Department's Office of Civil Rights (OCR), a federal judge found that OCR was both misinterpreting and inadequately enforcing Title IX, the statute that prohibits gender discrimination in federally-funded education programs and institutions.

2. OPPOSITION TO EQUAL OPPORTUNITY: Thomas has been a vocal critic of efforts to ensure equal opportunity in the workplace. While heading the EEOC, he expressed his opposition to affirmative action programs, including those ordered as remedies following a finding of discrimination. He openly opposed class-action suits in employment discrimination cases, despite Congress' mandate that the EEOC initiate such lawsuits. (Class-action suits are filed on behalf of groups of named plaintiffs and similarly situated individuals, therefore, their potential impact is often much greater than cases filed by individual plaintiffs.)

Under Thomas' leadership in 1985, the EEOC ruled that federal law does not require equal pay for jobs of comparable value, a finding that contradicted the 1981 Supreme Court decision in *Gunther*.

3. DENIAL OF THE RIGHT TO PRIVACY: Thomas has stated that he does not believe the unenumerated rights specified in the Ninth Amendment to the Constitution, including the right to privacy, were intended to be cited by the Supreme Court in overturning laws. He has said that he believes the *Griswold* decision, which upheld the right of married couples to obtain contraceptives and which was based on the Ninth Amendment, was wrongly decided. Such statements opposing the constitutional right to privacy show evidence of a willingness to restrict individual liberties, including the right to reproductive choice.

4. SUPPORT FOR THE "NATURAL LAW" CONCEPT: In speeches and articles, Thomas has maintained that judges should be guided by a "natural law" philosophy, the belief that the "inalienable rights" cited in the Declaration of Independence are a higher authority than the U.S. Constitution. Thomas had said he believes in the existence of

moral norms derived from "nature's god" that can be used to critique and even invalidate civil law. Thomas' statements about "natural law" raise serious doubts about his commitment to maintain separation of church and state.

5. NEED FOR JUDICIAL BALANCE: The recent Supreme Court appointments of Justices Anthony Kennedy, Antonin Scalia, and David Souter solidified a strong conservative shift in the Court. Replacing Justice Thurgood Marshall with a judicial conservative like Clarence Thomas will effectively eliminate the Court as an instrument for ensuring continued progress and protection of individual rights for decades to come. AAUW believes the Senate has a responsibility to ensure an ideologically balanced Supreme Court and must, therefore, defeat the Thomas nomination.

FIVE ACTIONS YOU CAN TAKE IMMEDIATELY

- 1. CONTACT** your two Senators at the U.S. Senate, Washington, DC 20510, to express your concern and opposition to the Thomas appointment. (Send copies of responses to the AAUW Program and Policy Department.)
- 2. VISIT** or call your Senators in your home state during the congressional recess. Most Senators are at home during August. Arrange meetings with their district staff for AAUW members and representatives of other groups to express concern.
- 3. INFORM** your community of AAUW's opposition to the Thomas nomination. Contact local newspapers, write letters to the editor, and make announcements at branch and community meetings.
- 4. CALL** AAUW's Congressional Action Line (202/785-7785) for regular updates.
- 5. ACT NOW!** The Senate Judiciary Committee has scheduled confirmation hearings to begin on September 10. *Senators need to hear from AAUW members today!*

Program and Policy Department
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