

Senator Mazie Hirono
Nomination hearing for Judge Neil Gorsuch
March 20, 2107

Thank you Mr. Chairman.

Judge Gorsuch, thank you as well for being here.

This hearing is about more than considering a nominee for the Supreme Court. It's about the future of our country.

It's about the tens of millions of people who work hard every day, play by the rules, but don't get ahead.

It's about the working poor who are one paycheck away from being on the streets;

It's about Muslim Americans who are victims in a renewed wave of hate crimes asking for protections from the courts;

It's about women having the choice of what to do with their bodies.

It's about LGBTQ Americans who want the same rights as everyone else.

For me, this hearing is about the people in this country who are getting screwed every single second, minute, and hour of the day.

I got into public service to help these people. And my questions over the coming days will draw on their experience, as well as my own.

My story might be unique for a United States Senator, but it is a story that is familiar for millions of people in this country.

When I was nearly 8 years old, my mom changed my life when she brought me to this country from Japan fleeing her abusive marriage.

Back then, there were no religious tests to determine who could immigrate to this country. There were no language requirements. You didn't need any special skills.

If President Eisenhower pursued the same policies President Trump would like to, it's very possible I wouldn't be here today.

I always knew I wanted to give back to my state and my country, but never thought politics would be the path I would choose.

But the Vietnam War opened my eyes to how public service could create social change.

I joined campus protests, questioned why we were sending so many young men off to die.

A small group of us decided that in order for things to change, we needed to do more than protest.

Many of us ran for office, because we needed to take a seat at the table to be able to fight to help make lives better.

It's why I'm here today.

Over the past few months, I've heard from thousands of people who are deeply worried about their families, their kids, and the future of our country under the Trump administration. Many of them are worried about what will happen if you are confirmed to the bench.

Apart from the legal analysis, whenever a case comes before a judge it invariably involves real people – people who are often there because they have experienced the worst day in their lives.

Whether they are victims of a crime, suffered a serious injury due to corporate malfeasance, or because they have lost their livelihood due to discriminatory behavior from their employer – each of them is looking to the courts to protect their interests and their rights.

During our meeting, I was encouraged when you said that the purpose of Article III of the Constitution was to protect the rights of the minority through access to the courts.

But as I have reviewed your opinions I have not seen that the rights of minorities are a priority for you. In fact, a pattern jumps out at me, you rarely seem to find in favor of the “little guy.”

In *TransAm Trucking [v. Administrative Review Board, U.S. Department of Labor]* your dissent argued that the company was justified in firing an employee who faced a choice between operating his vehicle in an unsafe manner and freezing to death in his truck.

In a number of cases, including *Thompson School District [v. Luke P.]*, your decisions made it more difficult for families with special needs children to get the help they needed as the law intended.

In *Planned Parenthood of Utah v. Herbert*, your dissent was far too deferential to the decisions of a governor who based those decisions on unverified information.

In *Burwell v. Hobby Lobby*, your opinion justified denying access to contraception based on the argument that corporations, like people, can hold religious beliefs.

The facts in each of these cases might be different, but there is a clear pattern to your writing: you consistently choose corporations and powerful interests over people.

But more than that, you have gone to great lengths to disagree with your colleagues on the 10th Circuit so that you can explain why some obscure or novel legal interpretation of a particular word in statute must result in finding for a corporation instead of an individual who has suffered real life harm.

This tendency demonstrates a commitment to ideology over common sense, and the purpose of the law, and is deeply troubling.

For example, in *TransAm Trucking [v. Administrative Review Board, U.S. Department of Labor]*, you fixated on the “plain” meaning of the word “operate” despite choosing a definition out of context and using it at odds of the clear purpose of the statute.

And in *Longhorn Service Company [v. Perez]*, you found a difference between a “floor hole” and a “floor opening” in order to side with a corporation trying to avoid a citation for a safety issue.

You found a difference in these terms that the rest of your colleagues on the 10th Circuit did not – truly a case of a distinction without a difference.

It’s like arguing over whether your nomination is because of a “vacancy” or an “opening” on the Supreme Court.

These decisions affected not just the individuals who came before you. As a Supreme Court Justice, your decisions will have lasting consequences for the rest of us.

During the campaign, President Trump made it very clear that he had a series of litmus tests for his Supreme Court nominees.

Over a two year period, the President said that his nominee must favor overturning *Roe v. Wade*, denying women access to health care on the basis of “religious freedom,” and upholding the *Heller* decision on guns – which the NRA believes prevents Congress, States, or local governments from passing common sense gun safety legislation.

Each of these tests would have a profound impact on the lives of every American.

Donald Trump’s litmus tests for his Supreme Court nominees were clear.

In nominating you, Judge Gorsuch, I can only conclude that you met the President’s litmus tests.

Your ideological perspective, or judicial philosophy, on these issues matter because, if confirmed, you will have a lifetime appointment to the Supreme Court.

In our courtesy meeting, you said you have a heart. So, Judge Gorsuch, we need to know what’s in your heart.

We need to understand how you will grapple with a number of important questions the Court will be asked to consider in the years ahead:

Will the Court protect the rights of working people and our middle class or side with corporations who want to dismantle organized labor in America?

Will the Court uphold a woman's Constitutional right to choose, or upend decades of legal precedent to overturn Roe v. Wade?

Will the Court protect free and fair elections by stopping unfettered campaign spending or allow corporations and the ultra-rich to hijack our democracy with dark money?

Will the Court protect the right to vote for all Americans, or allow states to use voter fraud as an excuse to disenfranchise vulnerable communities?

Will the Court protect our land, water, and earth or gut decades of environmental regulations?

Will the Court protect access to our justice system or slam the courthouse doors to all but the wealthiest among us?

Judge Gorsuch, my colleagues: This is not merely a hearing to consider the confirmation of one Supreme Court justice.

No.

We are considering the affirmation of our country's values.

The Supreme Court does not just interpret our laws. The Supreme Court shapes our society.

Will we be just? Will we be fair? Will America be a land of exclusivity for the few – or the land of opportunity for the many?

Will we be the compassionate and tolerant America that embraced my mother, my brothers and me so many decades ago?

Make no mistake: A Supreme Court vacancy isn't just another position we must fill in our federal judiciary.

A Supreme Court vacancy is a solemn obligation we must fulfill for our future generations.

Let's treat it as such.

Thank you, Mr. Chairman.