



TRANSFORMING THE COURTS THROUGH INTERSECTIONAL ADVOCACY

A
Queering Reproductive Justice
Toolkit

About Us

About the National LGBTQ Task Force

The *National LGBTQ Task Force* works to secure full freedom, justice, and equality for lesbian, gay, bisexual, transgender, and queer (LGBTQ) people. For over 40 years, we have been at the forefront of the social justice movement by training thousands of organizers and advocating for change at the federal, state, and local levels. The National LGBTQ Task Force recognizes that everyone has a fundamental right to sexual and bodily autonomy, which includes the right to decide whether or when to become a parent, parent the children we have, and to do so with dignity and free from violence and discrimination. We support the reproductive health, rights, and justice (“repro*”) movements because LGBTQ people need access to reproductive healthcare and services, but we continue to face pervasive discrimination designed to block recognition of our identities and relationships and to hinder our ability to form, raise, and protect our families.

About In Our Own Voice: National Black Women’s Reproductive Justice Agenda

In Our Own Voice: National Black Women’s Reproductive Justice Agenda is a national-state partnership with eight Black women’s Reproductive Justice organizations: The Afiya Center, Black Women for Wellness, Black Women’s Health Imperative, New Voices for Reproductive Justice, SisterLove, Inc., SisterReach, SPARK Reproductive Justice NOW, and Women with a Vision. *In Our Own Voice* is a national Reproductive Justice organization focused on lifting up the voices of Black women leaders on national, regional, and state policies that impact the lives of Black women and girls.

About National Asian Pacific American Women’s Forum

The *National Asian Pacific American Women’s Forum (NAPAWF)* is the only multi-issue, progressive, community organizing and policy advocacy organization for Asian American and Pacific Islander (AAPI) women and girls in the U.S. NAPAWF’s mission is to build collective power so that all AAPI women and girls can have full agency over our lives, our families, and our communities.

About National Latina Institute for Reproductive Health

The *National Latina Institute for Reproductive Health* is the only national reproductive justice organization dedicated to advancing health, dignity, and justice for the 29 million Latinas, their families, and communities in the United States. Our vision is to create a society in which Latinas have the economic means, social capital, and political power to make and exercise decisions about their own health, family, and future. For more information, please contact: Nina Esperanza Serrienne at nina@latinainstitutue.org.

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Introduction

As a group of advocacy organizations whose work is rooted in reproductive justice values, we encourage the integration of intersectionality into the judicial nominations space.

Using intersectionality as both a framework and an advocacy tool has the potential to engage a range of organizations, decision-makers, and the public around a judicial nominee. Ultimately, this framework provides our coalition with the language and tools to express the true gravity of each nominee's impact on the communities we all serve and increase engagement from advocacy groups and the public.

We hope that this first-of-its-kind toolkit will help advocates understand the intersections of the issues that impact our lives, including reproductive justice, racial justice, economic justice, LGBTQ liberation, disability justice, immigrant justice, criminal justice, environmental justice, and more. We hope that this framework will build out stronger advocacy around nominees.

How to Use this Toolkit

This toolkit is for organizations and advocates working on judicial nominations and for fair courts. The toolkit is intended to provide organizations with the resources necessary to frame their engagement and advocacy efforts using an intersectional framework.

The toolkit includes a background and history of the reproductive justice principles we use to guide our work, our vision for a fair justice system, an introduction to intersectionality as a tool to achieve a fair justice system, and sample resources that represent intersectional advocacy around a specific nominee.



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Section 1

Our Values: Reproductive Justice

What is Reproductive Justice?

Reproductive Justice (RJ) is a framework rooted in the human right to control our bodies, our sexuality, our gender, and our reproduction. RJ will be achieved when all people, of all immigration statuses, have the economic, social, and political power and resources to define and make decisions about our bodies, health, sexuality, families, and communities in all areas of our lives with dignity and self-determination.

The term “reproductive justice” was coined in 1994 by Black women who shifted the lens to center themselves, their experiences, and their communities. They believed that the mainstream pro-choice movement did not meet the needs and lived experiences of Black women and women of color.ⁱ Sharing frustration about the global reproductive health status of Black women and the limitations of a privacy-based “pro-choice” movement when Black women have minimal choices, the founding mothers of RJ determined the necessity of adopting a human rights framework for Black women, women of color, and women with low incomes that addressed issues of bodily autonomy within reproductive decision-making.

Adopting human rights, social justice, and reproductive rights tenets, these women created a transformational and grassroots-based movement that centers and supports a person’s decision to: become a parent, along with the conditions under which to give birth; not to become a parent, including access to all of the options for ending or preventing pregnancy; to parent a child one already has in safe, supportive communities; and to be able to make these decisions with dignity and free from violence and oppression.ⁱⁱ

It is important to note that, while the term was officially coined in 1994, people of color, including indigenous women and LGBTQ individuals--particularly transgender women--have been leading the struggle for equality and liberation for centuries. Our goal is to use and build upon the tools these leaders have developed to ensure our advocacy in all areas, including the fight for fair courts, is as holistic, comprehensive, and intersectional as people’s lived experiences.



Three Collaborative Frameworks: Reproductive Health, Rights, and Justiceⁱⁱⁱ

Reproductive Health, Reproductive Rights, and Reproductive Justice are three collaborative advocacy frameworks used to address people’s reproductive health care needs and the larger systems influencing access to related services. While these frameworks are meant to co-exist and advocacy organizations may utilize one or more to inform their work, it is important to note that each framework provides a unique lens.

Reproductive Health focuses on health care services, research, and facilities. Particular attention is paid to preventative care, contraception, abortion, fertility care, pregnancy care and culturally competent services.

Reproductive Rights focuses on “choice” and the legal rights associated with these health services, particularly the rights to have an abortion and to use contraception.

Reproductive Justice focuses on movement building and culture change regarding all of the systems that affect a person’s ability to make decisions about their body, health, sexuality, family, and community. The governing principle is “access”, because rights and services are effectively meaningless if people cannot access them.

Queering Reproductive Justice

The Reproductive Justice and LGBTQ movements are inseparable. The RJ framework acknowledges the ways that all people, including LGBTQ people, are impacted by intersecting forms of oppression--including when those oppressive systems play out in laws and policies that affect our daily lives.

These intersections are on display in Supreme Court jurisprudence, where the LGBTQ rights and reproductive rights movements have long been intertwined and dependent on one another’s progress. The following timeline reveals many parallels between the two movements and our fights to gain access to fundamental rights. For example, the right to privacy has been successfully used by the reproductive rights movement in important cases leading up to and including *Roe v. Wade*. Because of this groundwork, the Court has relied on the right to privacy in cases critical to LGBTQ equality, including *Lawrence v. Texas* and *Obergefell v. Hodges*.

Legal Timeline^{iv}

These cases are closely tied together due to their impact on issues of bodily autonomy, sexual freedom, relationship recognition, and parenting. A nominee who has a poor record of supporting reproductive rights will more likely than not be an opponent of LGBTQ equality. If confirmed, that judge would likely play a role in developing judicial opinions that would further exacerbate the barriers LGBTQ people face when trying to access comprehensive reproductive health care--especially those who are transgender, women, living with low incomes, people of color, and/or immigrants.



1942 *Skinner v. Oklahoma*: The right to procreate and the right to marry are fundamental constitutional rights; established that the compulsory sterilization of criminals is unconstitutional if the sterilization law treats similar crimes different.

1965 *Griswold v. Connecticut*: Married couples have a constitutional right to privacy that protects their decision to use contraception.

1966 *Loving v. Virginia*: Because the right to marry is a fundamental constitutional right, anti-miscegenation laws are unconstitutional.

1972 *Eisenstadt v. Baird*: The constitutional right to privacy extends to decisions about contraceptive use for all people, including those who are unmarried.

1973 *Roe v. Wade*: The constitutional right to privacy establishes the right to abortion.

1975 *Geduldig v. Aiello*: The Equal Protection Clause does not apply to state insurance program exclusions on pregnancy and childbirth.

1977 *Maher v. Roe*: The Equal Protection Clause does not apply to restrictions on abortion coverage in state Medicaid programs.

1980 *Harris v. McRae*: The Equal Protection Clause does not apply to people living in poverty, so state Medicaid programs are not required to fund abortion and the Hyde Amendment--which restricts federal Medicaid funding for abortion--is not unconstitutional.

1986 *Bowers v. Hardwick*: The right to privacy does not extend to the LGBTQ community, so anti-sodomy laws are not unconstitutional.

1995 *Planned Parenthood v. Casey*: Pre-viability restrictions on abortion are allowed so long as they are not an undue burden.

2003 *Lawrence v. Texas*: The constitutional right to privacy extends to all private consensual sexual conduct, overruling *Bowers v. Hardwick*.

2013 *U.S. v. Windsor*: The Defense of Marriage Act's definition of marriage as between "one man and one woman" violates the Equal Protection Clause.

2014 *Burwell v. Hobby Lobby*: Closely held corporations can claim religious exemptions from the Affordable Care Act mandate to provide employees with contraception coverage.

2015 *Obergefell v. Hodges*: The fundamental right to marry extends to same-sex couples, citing the constitutional right to privacy and the Equal Protection Clause.

2016 *Whole Woman's Health v. Hellerstedt*: Texas regulations that forced over half of the facilities providing abortions in the state to close are unconstitutional as an undue burden.

2016 *Zubik v. Burwell*: Court does not rule directly on whether the Affordable Care Act requires employers to provide seamless contraceptive coverage to their employees, regardless of the employers' religious beliefs.

2017 *Pavan v. Smith*: State laws that prevent same-sex couples from having both spouses' names on a birth certificate violates Due Process and Equal Protection under *Obergefell v. Hodges*.

2018 *Masterpiece Cakeshop v. Colorado Civil Rights Commission*: Court does not rule directly on whether state nondiscrimination law compels a cakeshop owner to design and make a cake for a same-sex wedding, against his religious beliefs.

Section 2

Our Vision: Fair Courts

Our current legal system is inherently unfair, especially for people of color, LGBTQ people, people living with low incomes, people with disabilities, and immigrants. Because the system was not made for us, and especially those holding more than one of these identities, we cannot have a fair court system without transforming the system.

The criminal justice system disproportionately harms the people who are central to our work as civil rights and social justice advocates. “More than 60% of the people in prison today are people of color,” and Black women are roughly twice as likely as white women to be incarcerated.^v LGBTQ people of color, especially queer and trans women of color, are more likely to be incarcerated in juvenile justice facilities, adult correctional facilities, and immigration detention facilities.^{vi}

Judges have a direct impact on these disparities: people of color and LGBTQ people are less likely to receive pretrial release; judges and court staff frequently discriminate against and stereotype LGBTQ people, and especially LGBTQ people of color; and Black and Latinx people are more likely to receive longer sentences than white people.^{vii}

The civil justice system also leaves many of the people we care about unprotected--especially people living at the intersection of multiple identities that are discriminated against in our society. For one, many people who experience legal harms such as discrimination cannot access the court system due to cost and unfair contract provisions.^{viii} When cases are successfully brought, plaintiffs generally receive little in the form of compensatory relief.^{ix}

Further, though we experience the world through the lens of our intersecting privileged and oppressed identities, the law does not always recognize that reality. Over the past few decades, some federal courts have developed jurisprudence allowing certain plaintiffs to bring claims that they were discriminated against on the basis of a combination of immutable characteristics, such as “sex plus race” and “race plus religion.”^x However, only some federal courts have adopted this intersectional framework, leaving many people across the country not fully protected.^{xi} Moreover, not all of us are explicitly recognized under federal civil rights laws and as a result may not have our whole selves protected, even with this framework.^{xii} Nevertheless, the reality is that discrimination “may occur not solely because of the person’s race or not solely because of the person’s sexual orientation or gender identity, [disability status, or immigration status], but because of the combination.”^{xiii} The law everywhere must continue to develop to catch up to that reality.

The immigration court system is equally fraught with inequities and discrimination faced by immigrants. Two laws from 1996 greatly expanded the grounds for which someone could be deported and also required mandatory detention for immigrants who commit certain crimes.^{xiv} These laws in addition to current policies have led to the detention of countless immigrants,^{xv} leaving those living at the intersection of multiple identities that are discriminated against in our society particularly vulnerable in the courts. This has manifested in immigrants being subjected to indefinite detention,^{xvi} separated from their families,^{xvii} subject to inhumane conditions,^{xviii} denied access to abortion,^{xix} and immigrants dying in the custody of Immigration Customs and Enforcement.^{xx}

Judges are gatekeepers to changing these systems and advancing the law to protect us all. To achieve a truly fair justice system, we need a diverse judiciary. Our push for a diverse judiciary should include advocating for not only nominees that are women and people of color, but also LGBTQ nominees, nominees with disabilities, nominees with low incomes, nominees who are immigrants, and nominees who hold a number of these and other identities. We should continue to elevate the need for a diverse judiciary that reflects the demographics of our society but be cautious of tokenization and about equating diversity with outright qualification.

We must support and advocate for nominees who not only bring diverse experiences and perspectives but also understand systems of oppression and advance intersectional understandings of the law. Having judges with this framework in mind brings us closer to transforming the court system into one that benefits and protects us all.



Section 3

Our Toolbox: Intersectionality

What is Intersectionality?

Reproductive justice utilizes an intersectional lens to assess, address, and advocate around systems of power and oppression. Intersectionality is a model developed in the 1960s-1980s by Black feminists to address how oppression based on race, class, and gender affects women of color. Dr. Kimberlé Crenshaw is credited with actually coining the phrase “intersectionality” in 1989. At the heart of this model is the concept of centering the most impacted communities in our advocacy and recognizing our multiple oppressed identities in order to work towards true liberation for us all.

Intersectionality as a concept is used to analyze and describe the ways in which systems of oppression, including racism, sexism, homophobia, transphobia, ableism, xenophobia, classism, etc., are interconnected and cannot be examined separately from one another. Intersectionality recognizes how these systems impact a person living with multiple identities that are discriminated against in our society. In other words, “people are often subject to discrimination based on multiple aspects of their identity, such as their race, gender, and immigration status, but also unique to the ‘intersection’ of their identities.”^{xxi} Narrow focus on just one system of oppression or one aspect of a person’s identity fails to paint a full picture of how the person is impacted by social, economic, legal, and political inequities.

Why Intersectionality for Fair Courts?

“The intersectionality of RJ is both an opportunity and a call to come together as one movement with the power to win freedom for all oppressed people.”- SisterSong^{xxii}

Using an intersectional framework that recognizes the impact of legal decisions affecting people’s multiple identities will build a stronger coalition and network of advocates. By showing how many different identity- or issue-based groups will be affected if a particular nominee gets confirmed, more organizations will be likely to engage with decision-makers and encourage their own members to do the same. Second, this framework provides organizations with a reason to engage consistently on all nominees, even if a particular nominee does not have a record that explicitly shows they would harm the people that the organization serves.

Using this intersectional framework in advocacy tools such as letters to decision-makers, op-eds, press statements, and social media will also resonate with broader public audiences. By engaging more members of the public--particularly those who will be the most impacted--we can increase pressure on decision-makers with a united message.



Intersectionality as a Framework

As civil rights and social justice advocates, it is crucial that we use intersectionality as a framework to ground our advocacy efforts. Using an intersectional framework, we can acknowledge the reality that the people we represent through our advocacy may be affected by several or all of these issues in different ways, ultimately allowing more organizations and more people to engage around a nominee.

Often in the context of judicial nominations, advocates and decision-makers talk separately about protecting abortion access, gender equity, LGBTQ equality, voting rights, workers' rights, and more. However, our identities and the issues we care about do not exist in silos, so our advocacy must reflect that.

Regardless of what issues or communities advocates see as central to their work, intersectionality shows that, for example, immigrants are impacted by court cases about food access, people of color are impacted by court cases about immigration, young people are impacted by court cases about health care, voters are impacted by court decisions about education, and people living in poverty are impacted by court decisions about LGBTQ rights.

Using an intersectional framework that recognizes the impact of legal decisions affecting people's multiple identities will build a stronger coalition and network of advocates. Beginning with this framework will help us develop more comprehensive and holistic strategies for engagement on potential nominees.

Intersectionality as an Advocacy Tool

Intersectional organizing is at the core of the Reproductive Justice movement. It is critical to our success as advocates and coalitions around judicial nominations and fair courts that we intentionally consider the impact of judges on people living at the intersections of multiple oppressed identities when we evaluate and strategize organizing efforts around a judicial nominee. We must conduct this analysis internally as organizations and as a coalition, this framing must translate externally in our communications to the broader public.

Advocates should begin strategy conversations about every nominee with an intentionally inclusive framework that addresses the needs and experiences of people living at the intersections of multiple oppressed identities. Advocates should consider how a judge will impact a people's life in various ways and how many people will be impacted in multiple ways.

When advocates' internal conversations include these understandings, messaging about the nominee's record to the broader community will reflect that. As a result, these communications will resonate with more people. Take, for example, a nominee with a problematic record on reproductive rights, LGBTQ issues, and racial justice. Rather than developing messaging that targets each of those buckets separately or picking and choosing which issues to highlight, advocates can center the impact of that nominee's confirmation on the very real lived realities of LGBTQ people of color who need access to reproductive health care services.



With messaging that centers people who will be the most impacted, we can engage and energize many people who will be impacted in some ways and many people who will be impacted in many ways, to put pressure on their Senator or an organization that serves them.

Section 4

Sample Documents

Sample Nominee: Neomi Rao

A recent judicial nominee, Neomi Rao, provides an important example of how intersectionality can be used to highlight the full extent of the harm judicial nominees will pose if confirmed.

Neomi Rao was nominated and has been confirmed to the U.S. Court of Appeals for the D.C. Circuit to fill the vacancy left by Brett Kavanaugh. Rao is an extremely dangerous candidate for women, communities of color, LGBTQ people, immigrants, people living in poverty, and all individuals living at the intersections of these identities. Importantly, her expressed opinions have manifested in her work and have harmed people at their multiple intersecting identities.

Rao's writings and work at Office of Information and Regulatory Affairs (OIRA) highlight how a nominee who espouses dangerous views regarding one marginalized community or civil liberty concern is likely to assert similar hostility towards other marginalized communities or issue areas. In her past writings, Rao has made odious comments about sexual violence, survivors of sexual violence, people of color, women, and LGBTQ people. Her work at OIRA was clearly informed by these views, where she undermined sex discrimination protections, suspended the implementation of a regulation requiring companies to report pay by race and gender, was involved in the rolling back of Title IX protections for sexual assault survivors in school and protections against housing discrimination based on race, and blocked the issuance of guidance on sexual harassment enforcement intended as a reference for employers and employees.

Rao's policies and ideas are harmful beyond their impact on women, people of color, and LGBTQ people as separate monoliths. The impact is exacerbated for people with intersecting marginalized identities, including race, sexuality, gender, and immigration status.

For example, by denying the existence of sexual and racial oppression, Rao denies the history and experiences of women of color, people of color, and LGBTQ people, including queer and transgender women and queer and transgender people of color. Her consistent victim blaming coupled with her role in sanctioning the roll back of protections under Title IX disproportionately harms women, people of color, people with disabilities, and LGBTQ people--all of whom are more likely to experience sexual violence than their counterparts. These actions impact people holding more than one of these identities particularly deeply. Thus, despite the fact that Rao treats these communities as a monolith when expressing and implementing her ideas, the intersectional nature of sex discrimination and sexual violence necessarily

mean that the scope of her harmful policies will extend to reproductive rights, gender justice, racial justice, disability justice, LGBTQ justice, and beyond.

Rao also finalized rules promulgated by the Department of Health and Human Services that allow for religious refusals, which would allow medical providers that have “conscience objections” to refuse to treat a patient. Religious and conscience refusals essentially allow providers to discriminate against patients, which has a disproportionately negative impact on LGBTQ people, particularly transgender individuals, and people seeking reproductive health services. As a result, the rules finalized under Rao will harm LGBTQ patients seeking health care services, including reproductive health care or those who have previously obtained services with which the provider disagrees, including abortion care. Furthermore, these rules will disproportionately impact queer and transgender communities of color and create more barriers for individuals with limited English proficiency.

Rao’s past statements and policies at OIRA have impacted whether people are able to live with autonomy, self-determination, dignity, and freedom from violence and discrimination. The impact of Rao’s damaging beliefs and policies is exacerbated for people at their multiple marginalized and intersecting identities, including race, sexuality, gender, immigration status, and proficiency in English.

Rao’s views are intersectional in their impact and, as such, required an intersectional response. The Fair Courts Task Force, led by the Leadership Conference on Civil and Human Rights, effectively utilized a nuanced and intersectional approach to our strategy around Rao, and the impact of our work spanned a broad range of communities. The samples to follow are intended to serve as tools to help coalition partners continue the momentum for intersectional advocacy around all future nominees.



Sample Letter to Hill

February 11, 2019

The Honorable Lindsey Graham, Chairman
Senate Committee on the Judiciary
290 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Dianne Feinstein, Ranking Member
Senate Committee on the Judiciary
331 Hart Senate Office Building
Washington, D.C. 2051

RE: Reproductive Justice Groups Oppose Confirmation of Neomi Rao

Dear Chairman Graham, Ranking Member Feinstein, and Members of the Senate Committee on the Judiciary:

We, In Our Own Voice: National Black Women's Reproductive Justice Agenda, the National Asian Pacific American Women's Forum, and the National Latina Institute for Reproductive Health, write to express our strong opposition to the confirmation of Neomi Rao to the U.S. Court of Appeals for the D.C. Circuit. We are three women of color-led Reproductive Justice organizations committed to lifting up the voices and experiences of Black, Latinx, and Asian American and Pacific Islander women and girls.

Reproductive Justice is a framework rooted in the human right to control our bodies, our sexuality, our gender, and our reproduction. Reproductive Justice will be achieved when all people, of all immigration statuses, have the economic, social, and political power and resources to define and make decisions about our bodies, health, sexuality, families, and communities in all areas of our lives with dignity and self-determination.

Given our commitment to reproductive justice, we are deeply troubled by Ms. Rao's nomination. While we do champion a diverse judiciary that accurately reflects the demographics of our society, a judicial nominee must also have qualifications beyond their identity- they must possess the skills, knowledge, and values necessary to enforce equal justice under the law. Importantly, Ms. Rao's identity as a woman of color does not automatically qualify her for a seat on the D.C. Circuit, nor does it make her an authority on the oppressions experienced by communities of color or women of color. In fact, her record demonstrates hostility towards communities of color, women, and LGBTQ people, as well as a disregard for fundamental constitutional and civil rights. Ms. Rao reaffirmed her dangerous ideologies during her Senate Judiciary Committee hearing and did nothing to assuage our deep concerns about her ability to protect and preserve essential rights for our communities. In light of Ms. Rao's record and responses during her hearing, we believe this nominee lacks the qualifications to serve with the fairness and impartiality required of a judge.

Throughout college and in the year after she graduated, Ms. Rao wrote op-eds that used inflammatory and discriminatory language to discuss women, people of color, the LGBTQ community, and sexual violence. These views do not reflect the key tenets of reproductive justice and have carried over into Ms. Rao's career and current position as the head of the Office of Information and Regulatory Affairs (OIRA).



If confirmed, Ms. Rao's harmful views would inform her judicial opinions and ultimately result in the erosion of critical legal protections for our communities.

Sex and Gender Equity

Ms. Rao has repeatedly undermined the existence of sex discrimination. For example, in an article discussing feminism, she refers to “the dangerous feminist idealism which teaches women that they are equal. Women believe falsely that they should be able to go anywhere with anyone.”^{xxiii} In another article, she states that women have achieved “virtual equality” with men and that any existing inequalities can be attributed to differences between the two sexes: “We have achieved virtual equality, yet we will never achieve sameness. Nature has been kept hidden under power suits as women have climbed the corporate ladder. Perhaps now, after 25 years of coeducation, the power suit can be put away just long enough to hear the questions asked by nature.”^{xxiv} In the same article, Ms. Rao suggests that women's choice to have families is the cause of gender inequality. Ms. Rao's writings perpetuate dangerous stereotypes about women and ultimately show that she vehemently opposes reproductive justice values, which center all peoples' right to bodily autonomy and the ability to make decisions about themselves, their bodies, and to parent or not, free from discrimination.

These harmful beliefs clearly continue to inform her work as the Administrator of OIRA, where she suspended the implementation of a regulation created during the Obama administration requiring companies to report pay by race and gender. That regulation was promulgated in an effort to better understand and address the gender pay gap. In a memo to the Acting Chair of the Equal Employment Opportunity Commission, she justified her decision to stay the regulation by stating that the collection of that data “lack[ed] practical utility.” By suspending this regulation, particularly with that pointed justification, Ms. Rao demonstrated an ongoing disregard for the existence of sex discrimination and gender inequality in the workplace. These beliefs are dangerous to achieving autonomy and self-determination for women of color, who face intersecting discrimination based on their race and gender.

Racial Justice

Ms. Rao has consistently expressed views in her writing throughout college and in her 20s that demonstrate hostility toward communities of color. In an article titled *Separate, But More Than Equal*, Ms. Rao referred to recruitment efforts geared toward students of color and the existence of cultural centers at Yale as “special treatment for minority students.”^{xxv} In another article, Ms. Rao stated, “Over the past decades, Yale has dedicated itself to a relatively firm meritocracy, which drops its standards only for a few minorities, some legacies and a football player here or there.”^{xxvi} More specifically, she referred to affirmative action as the “anointed dragon of liberal excess.”^{xxvii} Speaking of race generally, she called it a “hot, money-making issue.”^{xxviii}

In addition, she denied the existence of both sexual and racial oppression in an article titled *Submission, Silence, Mediocracy*.^{xxix} She wrote, “Myths of sexual and racial oppression [propagate] themselves, create hysteria and finally lead to the formation of some whining new group. One can only hope to scream, ‘Perspective, just a little perspective, dahling!’”^{xxx} These comments suggest that Ms. Rao does not see racial oppression as a serious threat to the rights and autonomy of communities of color despite the real issues our communities face everyday.

More recently, Ms. Rao worked with the Department of Housing and Urban Development to roll back protections against housing discrimination based on race. During her hearing before the Senate Judiciary Committee, Ms. Rao refused to take ownership of her role in these rollbacks as the head of OIRA. This

indicates that she either does not understand the implications of her work or is willfully denying involvement because she understands that admitting her role in these dangerous rollbacks could have negative ramifications on her confirmation prospects. Either way, this further underscores Ms. Rao's lack of commitment to the needs of our communities and overall lack of fitness for this position. Additionally, we are deeply troubled by her refusal to unequivocally state that *Brown v. Board of Education*, a cornerstone of constitutional rights for people of color, was correctly decided. The views expressed in her comments and her current practices as the head of OIRA raise serious concerns about Ms. Rao's ability to effectively and fairly apply civil rights laws in cases of race discrimination and other intersecting oppressions faced by our communities.

LGBTQ Rights

Ms. Rao has also espoused dangerous views on LGBTQ rights. In discussing LGBTQ groups on Yale's campus at the time, Ms. Rao wrote, "Trendy political movements have only recently added sexuality to the standard checklist of traits requiring tolerance."^{xxx} In talking about activists for racial justice, gender equality, and LGBTQ rights, she wrote, "Underneath their touchy-feely talk of tolerance, they seek to undermine American culture . . . For example, homosexuals want to redefine marriage and parenthood; feminists in women's studies programs want to replace so-called male rationality with more sensitive responses common to womyn."^{xxxii} In the same article, Ms. Rao expressed a disdain for multiculturalism more broadly and how movements for racial justice, gender equality, and LGBTQ rights are harming society. Ms. Rao's writings demonstrate dangerous views about societal values and norms.

Similarly to her previously expressed ideologies on gender equity and racial justice, Ms. Rao's harmful views on the LGBTQ community persist in informing her work. At OIRA, Ms. Rao finalized rules promulgated by the Department of Health and Human Services that allow for religious refusals, which would allow medical providers that have "conscientious objections" to refuse to treat a patient. This rule will harm LGBTQ patients seeking health care services, as well as patients seeking reproductive health care or who have previously obtained services with which the provider disagrees, including abortion care. Furthermore, these rules will disproportionately impact queer and transgender communities of color and create more barriers for individuals with limited English proficiency. Ms. Rao's role in furthering this policy reveals her continued belief that LGBTQ people do not deserve dignity and autonomy in making decisions about their lives, families, and communities. Ms. Rao's writings and current attacks on LGBTQ rights and equality raises serious concerns about her ability to be a fair and impartial judge on these issues.

Sexual Violence

Finally, Ms. Rao has made odious statements about sexual violence and sexual violence survivors. She has said, "It has always seemed self-evident to me that even if I drank a lot, I would still be responsible for my actions. A man who rapes a drunk girl should be prosecuted. At the same time, a good way to avoid a potential date rape is to stay reasonably sober."^{xxxiii} Here, Ms. Rao is engaging in survivor-shaming and blaming, a dangerous narrative that advocates have long sought to disrupt. Ms. Rao has also suggested that if a woman chooses to drink, she is making the choice to be sexually assaulted: "And if she drinks to the point where she can no longer choose, well, getting to that point was part of her choice."^{xxxiv}

The beliefs Ms. Rao expressed in her past writings are reflected in her current work as the head of OIRA and in the statements she made at her Senate Judiciary Committee hearing. Most recently, she has been involved with rolling back Title IX protections for sexual assault survivors in school. Additionally, she has blocked the issuance of guidance on sexual harassment enforcement intended as a reference for

employers and employees. During her hearing, Ms. Rao both refused to take responsibility for her role in the Title IX rollbacks and refused to commit to recusing herself if a case dealing with those rules came before her as a judge on the D.C. Circuit.

Most concerning, Ms. Rao also reaffirmed her prior statements regarding sexual assault. Her transparent efforts to reframe her prior statements as a “common sense observation” about how a woman can avoid becoming a victim failed to show an evolution in her thinking around sexual assault. In fact, her language further perpetuates rape culture by insinuating that there could be circumstances in which the onus can be on the survivor rather than on the abuser. Ms. Rao did nothing to indicate that she would not use these dangerous ideologies to inform her decision-making if confirmed to the court.

The dangerous ideologies expressed in her prior writings, the actions she has since taken in her current position, and her statements at her hearing suggest that Ms. Rao would fail to protect women of color from discrimination and harassment they face. These views raise serious concerns about Ms. Rao’s ability to be a fair and impartial judge in cases dealing with sexual assault and gender discrimination more broadly.

* * *

For women of color, threats to protections of our various identities and experiences, including reproductive rights, LGBTQ rights, workplace protections, survivors’ rights, and racial justice, are threats to our bodily autonomy and undermine our ability to make decisions for our own lives and families. Women of color rely on the protections enforced by courts, yet Ms. Rao’s repeatedly-expressed disdain for any movement looking to empower those most discriminated against indicates that she would be a threat to our communities. As a judge on the second highest court of the land, Ms. Rao will have the power to decide many cases involving critical legal protections for groups and civil rights she has openly mocked and opposed. We cannot support a nominee who will not only ignore the needs of communities of color, including queer and transgender communities of color, but be in a position to establish legal precedent based on dangerous and discriminatory views of these communities and our civil rights. Our communities are counting on women of color in positions of power to ensure that our fundamental and civil rights are protected and preserved, yet Ms. Rao has repeatedly shown that she will not and cannot fulfill that role. For the foregoing reasons, we urge you to strongly oppose the confirmation of Neomi Rao to serve on the U.S. Court of Appeals for the D.C. Circuit.

Sincerely,

In Our Own Voice: National Black Women’s Reproductive Justice Agenda
National Asian Pacific American Women’s Forum
National Latina Institute for Reproductive Health



Sample Op-Ed

Neomi Rao will not protect rights of women of color

By Marcela Howell, Sung Yeon Choimorrow and Jessica González-Rojas, Opinion Contributors — 02/15/19 07:00 AM EST

In a sea of predominantly white male judicial nominees, Neomi Rao, President Trump's nominee to the U.S. Court of Appeals for the District of Columbia Circuit, stands out as a rare woman of color. However, Rao's identity as a woman of color has not resulted in her willingness to further our needs. Her track record has shown that she refuses to champion the issues important to communities of color — women of color, in particular.

Although we champion a diverse judiciary that accurately reflects the demographics of our society, judicial nominees also must have qualifications beyond their identity — they must possess the skills, knowledge and values necessary to enforce equal justice under the law. Neomi Rao is not that nominee.

Since her time in college, Rao has shown hostility toward the fundamental constitutional and civil rights of communities of color, women and LGBTQ people. During her Senate Judiciary Committee hearing, Rao reaffirmed her dangerous ideologies and disregard for the essential rights of our communities. She lacks the qualifications to serve as a judge on any court, let alone a critical court that reviews many of the lawsuits brought against the federal government and is a frequent feeder to the Supreme Court.

In her early 20s, Rao wrote op-eds that used inflammatory language to discuss women, people of color, the LGBTQ community, and survivors of sexual violence. Her writings perpetuate dangerous stereotypes about our communities and ultimately show that she always has vehemently opposed reproductive justice values, which center people's right to bodily autonomy and the ability to make decisions about ourselves, our bodies and to parent or not, free from discrimination.

We've seen these views reflected in Rao's actions throughout her career, including in her current position as the head of the Office of Information and Regulatory Affairs (OIRA). While acting chair of the Equal Employment Opportunity Commission, Rao was involved in blocking a rule that would require salary transparency in an effort to stop pay discrimination based on sex, race and ethnicity. Under her watch at OIRA, the administration proposed significantly rolling back the Department of Education's Title IX protections for survivors of sexual assault on campuses.

During her hearing, Rao stated that her op-ed position — “A good way to avoid a potential date rape is to stay reasonably sober” — was “just a commonsense observation.” While Rao issued a letter after the hearing insisting that she was not blaming survivors, she signed off on the Title IX changes regarding campus sexual assaults. Rao's statements at the hearing and her work at OIRA reflect a lack of understanding that the systems of power and control can perpetuate rape culture.

Disturbingly, Rao has shown that she believes racial oppression is a myth. She has spoken derisively about affirmative action, suggesting that standards are dropped for “a few minorities.” More specifically, she referred to affirmative action as the “anointed dragon of liberal excess,” and said race, generally, is a “hot, money-making issue.” As organizations that fight for reproductive justice, including racial justice, we find this language to be deeply offensive and grossly out of touch with the realities our communities

face every day. Currently, Rao is working with the Department of Housing and Urban Development to gut protections against housing discrimination based on race.

Rao also has espoused dangerous views on LGBTQ rights. In talking about activists for racial justice, gender equity and LGBTQ rights, she wrote, “Underneath their touchy-feely talk of tolerance, they seek to undermine American culture. ... For example, homosexuals want to redefine marriage and parenthood.” As reproductive justice advocates, we believe that centering our intersectional identities enhances our society, rather than undermines it.

At OIRA, Rao finalized rules promulgated by the Department of Health and Human Services that would allow medical providers to use “religious objections” as a reason to refuse to treat a patient. This rule will harm LGBTQ patients and all patients seeking reproductive health care. This rule will disproportionately impact queer and transgender communities of color and create more barriers for individuals with limited English proficiency.

During her hearing, Rao refused to acknowledge that Roe v. Wade, Brown v. Board of Education, Griswold v. Connecticut, and Lawrence v. Texas — all landmark affirmations of our communities’ constitutional rights — were correctly decided. If she can’t expressly and unequivocally support our rights during her hearing, we in no way can expect her to enforce our rights while on the bench.

Our communities count on women of color in positions of power to ensure that our fundamental and civil rights are protected, yet Rao repeatedly has shown that she will not, and cannot, fulfill that role. It is incumbent upon our senators to do their job to protect our communities and the integrity the judiciary by refusing to confirm Neomi Rao.

Marcela Howell is founder and president of In Our Own Voice: National Black Women’s Reproductive Justice Agenda.

Sung Yeon Choimorrow is executive director of the National Asian Pacific American Women’s Forum.

Jessica González-Rojas is executive director of the National Latina Institute for Reproductive Health.

Sample Press Release

FOR IMMEDIATE RELEASE

February 5, 2019

Contact: Jennifer Wang

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Statement from National Asian Pacific American Women's Forum Executive Director Sung Yeon Choimorrow on the Nomination of Neomi Rao to fill Brett Kavanaugh's vacant seat on the D.C. Circuit Court

Washington, D.C. – President Donald Trump has nominated Neomi Rao, the current Administrator of the Office of Information and Regulatory Affairs (OIRA), to replace Supreme Court Justice Brett Kavanaugh's former seat on the D.C. Circuit Court. Rao testified at a hearing before the Senate Judiciary Committee today. In the past, Rao clerked for Justice Clarence Thomas and was a professor at George Mason University's Antonin Scalia Law School before being confirmed to her role with OIRA in 2017. A seat on the D.C. Circuit is considered a prestigious and influential position, as many of its judges have gone on to serve on the Supreme Court.

National Asian Pacific American Women's Forum Executive Director Sung Yeon Choimorrow issued the following statement in response:

"We are deeply concerned about President Trump's decision to nominate Neomi Rao to a role on the D.C. Circuit. Ms. Rao's record of gutting protections for communities of color, women, LGBTQ people, and sexual assault survivors showcases her strong stance against protections for AAPI women and girls, and if she is confirmed, she would be put into a position to rubber stamp the administration's harmful policies, which have thus far been diametrically opposed to our values and priorities.

"In her position as the head of the OIRA, Rao has signed off on numerous policies that undermine the rights of women, LGBTQ people, and communities of color. For instance, she suspended a regulation, designed to address gender pay gaps, that required employers to report pay based on race and sex. She has also endorsed policies that roll back Title IX protections for students who experience sexual assault and harassment and worked with the Department of Housing and Urban Development to gut protections against housing discrimination based on race. Rao also finalized rules that allow medical providers to refuse to treat a patient based on a "conscientious objection," which will detrimentally impact LGBTQ people seeking medical care and people seeking reproductive health care. The President's choice to nominate Rao is disconcerting because it continues his pattern of filling the courts with individuals who demonstrate hostility towards communities of color, women, and LGBTQ people and a disregard for the rights and liberties protected by the Constitution.

"AAPIs across the country are counting on women of color in positions of power to ensure that our fundamental and civil rights are protected and preserved. Neomi Rao's record raises serious doubts about her ability to perform her duties as a judge with fairness and without bias. If Neomi Rao is confirmed to the D.C. Circuit, we call on her to be a fair and impartial judge and to uphold our fundamental rights protected by the Constitution and the laws of the United States. AAPI women and girls deserve to have agency and autonomy over our bodies, our families, and our lives. NAPAWF will continue fighting fiercely to create a world in which AAPI women and girls have autonomy and a real chance to thrive, and we hope our elected and appointed officials will join us in making this a reality."



Sample Social Media

Sample Tweets

Neomi Rao, Trump's nominee for the 2nd most powerful court in the country, is bad for:

- ✗ Workers' Rights
- ✗ Racial Justice
- ✗ LGBTQ Rights
- ✗ Sexual Assault Survivors #StopRao

Rao once again showed how grossly out of touch she is with our communities' needs. She clearly does not understand the systems of power and control that perpetuate rape culture, and we can't afford to have someone like that on the bench. #RejectRao

Rao's record demonstrates hostility toward the fundamental constitutional and civil rights of communities of color, women, survivors of sexual violence, and LGBTQ people. We don't believe she will protect our rights while on the bench. #RejectRao

Sample Image



Section 5

Messaging Guidance

LGBTQ rights and justice *are* reproductive rights and justice. Not only do LGBTQ people need access to reproductive health services, including contraception and abortion, but our rights and movements are inseparable. The LGBTQ movement and the reproductive health, rights, and justice movements must work together to fight for judges who uphold critical legal protections for all of us.

LGBTQ Reproductive Health

Although reproductive health is often discussed as a “women’s issue,” many LGBTQ people—including lesbian and bisexual women, transgender men, two-spirit, intersex, nonbinary, and gender nonconforming people—can get pregnant, use birth control, have abortions, carry pregnancies, and parent.

Therefore, a judicial nominee with a poor record on reproductive rights, if confirmed, would likely play a role in developing precedent that would further exacerbate the barriers LGBTQ people face when trying to access comprehensive reproductive health care.

LGBTQ & Reproductive Rights

We’ve seen it time and time again: nominees who oppose LGBTQ rights oppose reproductive rights, and nominees who oppose reproductive rights oppose LGBTQ rights. A person’s ability to live their lives fully, with dignity, and free from discrimination is dependent on collective advocacy and judges who will uphold our fundamental rights.

LGBTQ & Reproductive Justice Messaging Guidance

Messaging around nominees who oppose reproductive rights should always center the most impacted communities, including LGBTQ people. It is important to recognize that even though the legal right to abortion exists under *Roe v. Wade* and *Planned Parenthood v. Casey*, these cases have not ensured access to abortion for people living with low incomes, people of color, immigrants, LGBTQ people, people with disabilities, and those living at the intersections of these and other identities.

When writing, speaking, or sharing social media about a nominee’s record on reproductive rights, organizations can begin to incorporate a reproductive justice framework by using gender-inclusive language. This creates a climate where we are not excluding certain people who could be affected by reproductive rights cases, including lesbian and bisexual women, transgender men, two-spirit, intersex, nonbinary, and gender nonconforming people. With messaging that centers people who will be the most impacted, we can engage and energize a broader range of people around judicial nominations.



LGBTQ & Reproductive Justice Messaging

<i>Instead of...</i>	<i>Use...</i>	<i>Why?</i>
<p>Woman/women</p> <p>Pregnant woman/women</p> <p>Women who need access to abortion</p> <p>A woman's body</p> <p>A woman who has had an abortion</p> <p>Every woman should have access to reproductive health care</p>	<p>People</p> <p>Pregnant person/people</p> <p>People who need access to abortion</p> <p>A person's body</p> <p>Someone who has had/people who have had an abortion</p> <p>All people should have access to reproductive health care</p>	<p>The terms “woman” or “women” should only be used:</p> <ul style="list-style-type: none"> -If a specific study or statistic referring to “women” is being cited, or -When the term is intended to be inclusive of all women, including women who are transgender. <p>Using the gender-inclusive terms “person” or “people” better reflects the range of people who have reproductive health needs and are impacted by cases on reproductive rights.</p>
<p>Women's rights</p> <p>Women's health</p>	<p>Reproductive rights</p> <p>Reproductive health</p>	<p>The terms “reproductive rights” and “reproductive health” are more inclusive of people of genders who have reproductive health needs and are impacted by cases on reproductive rights.</p>
<p>A woman should have control over her own body</p>	<p>People should have control over their own bodies</p>	<p>Instead of using she/her/hers pronouns when discussing people who could be impacted, the gender-neutral pronouns they/them/their are more inclusive.</p>

ⁱ “What is Reproductive Justice?” *SisterSong*, 20 Sept 2017, <http://sistersong.net/reproductive-justice/>.

ⁱⁱ Asian Communities for Reproductive Justice. *A New Vision for Advancing Our Movement For Reproductive Health, Reproductive Rights and Reproductive Justice*, 2005, <http://strongfamiliesmovement.org/assets/docs/ACRJ-A-New-Vision.pdf>. Accessed 20 Sept 2017.

ⁱⁱⁱ See Zsea Beaumonis & Candace Bond-Therault (Eds.), *Queering Reproductive Justice: A Toolkit*, National LGBTQ Task Force, 2017, at 8-10, for expanded definitions of these and other terms used throughout this toolkit. Available at <https://www.thetaskforce.org/wp-content/uploads/2017/03/Queering-Reproductive-Justice-A-Toolkit-FINAL.pdf>.

- ^{iv} Adapted from Queering Reproductive Justice: A Toolkit, National LGBTQ Task Force, 2017, at 11-12.
- ^v Sentencing Project, Fact Sheet: Trends in U.S. Corrections 5 (2018).
- ^{vi} Ctr. for Am. Progress & Movement Advancement Project, Unjust: How the broken criminal justice system fails LGBT people of color 24 (2016), <http://www.lgbtmap.org/file/lgbt-criminal-justice-poc.pdf>.
- ^{vii} *Id.*; Marc Maur, *The impact of mandatory minimum penalties in federal sentencing*, Viewpoint (2010).
- ^{viii} See Brittany Kauffman, *Study on Estimating the Cost of Civil Litigation Provides Insight into Court Access*, Inst. for the Advancement of the Am. Legal System (Feb. 26, 2013), <https://iaals.du.edu/blog/study-estimating-cost-civil-litigation-provides-insight-court-access>; Michelle Chen, *One More Way the Courts Aren't Working for the Poor*, The Nation (May 16, 2016), <https://www.thenation.com/article/one-more-way-the-courts-arent-working-for-the-poor/>.
- ^{ix} Maryam Jameel & Joe Yerardi, Workplace discrimination is illegal. But our data shows it's still a huge problem, Vox (Feb. 18, 2019), <https://www.vox.com/policy-and-politics/2019/2/28/18241973/workplace-discrimination-cpi-investigation-eeoc>.
- ^x Marc Chase McAllister, *Sexual Orientation Discrimination as a Form of Sex-Plus Discrimination 10* (February 21, 2019). Available at SSRN: <https://ssrn.com/abstract=3339405> or <http://dx.doi.org/10.2139/ssrn.3339405> (referencing *Feingold v. New York*, 366 F.3d 138, 153 (2d Cir. 2004); *Lam v. Univ. of Hawaii*, 40 F.3d 1551 (9th Cir. 1994); *Hicks v. Gates Rubber Co.*, 833 F.2d 1406 (10th Cir. 1987); *Jefferies v. Harris County Community Action Association*, 4615 F.2d 1025 (5th Cir. 1980).
- ^{xi} As of the drafting of this toolkit, only four federal courts of appeals have recognized “plus claims” involving an immutable characteristic. See McAllister, *supra* note 10, at 10-12.
- ^{xii} *Several federal courts have held that sexual orientation and gender identity discrimination are prohibited forms of sex discrimination under Title VII of the Civil Rights Act of 1964. Only one federal court has indicated that sexual orientation can be a “plus” factor when the plaintiff is experiencing discrimination. McAllister, supra note 10, at 2 (citing Franchina v. City of Providence, 881 F.3d 32, 54 (1st Cir. 2018) (“[W]e do not believe [our prior precedent] forecloses a plaintiff in our Circuit from bringing sex-plus claims under Title VII where, in addition to the sex-based charge, the ‘plus’ factor is the plaintiff’s status as a gay or lesbian individual.”); id. (“[W]e see no reason why claims where the ‘plus-factor’ is sexual orientation would not be viable if the gay or lesbian plaintiff asserting the claim also demonstrates that he or she was discriminated at least in part because of his or her gender.”)).*
- ^{xiii} Brief for National LGBTQ Task Force as Amici Curae Supporting Respondents, *Masterpiece Cakeshop v. Col. C.R. Comm’n*, 137 S.Ct. 2290 (2017), <http://www.thetaskforce.org/wp-content/uploads/2017/10/16-111-bsac-LGBTQ-Task-Force.pdf>.
- ^{xiv} See Bobby Hunter & Victoria Yee, *Dismantle, Don’t Expand: The 1996 Immigration Laws*, Immigrant Justice Network (2017), https://www.immigrantdefenseproject.org/wp-content/uploads/1996Laws_FINAL_Report_5.10.17.pdf.
- ^{xv} Denise Lu & Derek Watkins, *Court Backlog May Prove Bigger Barrier for Migrants Than Any Wall*, N.Y. Times (Jan. 24, 2019), <https://www.nytimes.com/interactive/2019/01/24/us/migrants-border-immigration-court.html>.
- ^{xvi} Domenico Montanaro, Richard Gonzales, & Nina Totenberg, *Supreme Court Ruling Means Immigrants Could Continue To Be Detained Indefinitely*, NPR (Feb. 27, 2018, 10:42 AM), <https://www.npr.org/2018/02/27/589096901/supreme-court-ruling-means-immigrants-can-continue-to-be-detained-indefinitely>.
- ^{xvii} Camila Domonoske & Richard Gonzales, *What We Know: Family Separation And ‘Zero Tolerance’ At The Border*, NPR (June 19, 2018, 2:17 PM), <https://www.npr.org/2018/06/19/621065383/what-we-know-family-separation-and-zero-tolerance-at-the-border>.
- ^{xviii} Andrew Gumnel, *‘They were laughing at us’: immigrants tell of cruelty, illness and filth in US detention*, Guardian (Sept. 12, 2018, 4:00 AM), <https://www.theguardian.com/us-news/2018/sep/12/us-immigration-detention-facilities>.
- ^{xix} Robert Pear, *Do Migrant Teenagers Have Abortion Rights? Two Volatile Issues Collide in Court*, N.Y. Times (Sept. 29, 2018), <https://www.nytimes.com/2018/09/29/us/politics/court-abortion-immigrants.html>.
- ^{xx} Lisa Riordan Seville, Hannah Rappleye & Andrew W. Lehren, *22 immigrants died in ICE detention centers during the past 2 years*, NBC News (Jan. 6, 2019, 7:10 AM EST), <https://www.nbcnews.com/politics/immigration/22-immigrants-died-ice-detention-centers-during-past-2-years-n954781>.
- ^{xxi} “Ten Tips for Putting Intersectionality into Practice,” *Opportunity Agenda*, <https://www.opportunityagenda.org/explore/resources-publications/ten-tips-putting-intersectionality-practice>.
- ^{xxii} “What is Reproductive Justice?” *SisterSong*, 20 Sept 2017, <http://sistersong.net/reproductive-justice/>.
- ^{xxiii} Neomi Rao, *The Feminist Dilemma*, Yale Free Press (Apr. 1993).
- ^{xxiv} Neomi Rao, *Vive la Différence*, Yale Free Press (Feb./Mar. 1995).
- ^{xxv} Neomi Rao & Luis Roth, *Separate, But More Than Equal*, Yale Free Press.
- ^{xxvi} Rao, *Vive la Différence*, *supra* note 2.
- ^{xxvii} Neomi Rao, *One Writer’s Battles*, Weekly Standard (Nov. 10, 1996, 11:00 PM).
- ^{xxviii} Neomi Rao, *The Hottest Duo in Academe*, Weekly Standard (Apr. 22, 1996, 12:00 AM).
- ^{xxix} Neomi Rao, *Submission, Silence, Mediocrity*, Yale Free Press (Nov. 1993).
- ^{xxx} *Id.*
- ^{xxxi} Neomi Rao, *Queer Politics*, Yale Herald (Nov. 11, 1994).
- ^{xxxii} Neomi Rao, *How the Diversity Game is Played*, Wash. Times (July 17, 1994).
- ^{xxxiii} Neomi Rao, *Shades of Gray*, Yale Herald (Oct. 14, 1994).
- ^{xxxiv} *Id.*