# Memo exposes anti-democratic agenda of US Supreme Court nominee

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A 1985 job application submitted by Samuel Alito, then seeking a promotion within the Reagan administration, demonstrates that President Bush's nominee to the Supreme Court is a life-long political reactionary committed to dismantling the social and legal gains achieved in the United States during the decades following World War II.

Alito's two-page description of his political development and legal views must serve as a stark warning to the American people on the breadth and depth of the next stage of the US ruling elite's attack on democratic rights.

Monday's release of the application in the right-wing *Washington Times* was likely intended to strengthen support for Alito among religious fundamentalists and other political reactionaries within the Republican Party base. The exposure of his hostility to high court precedents protecting civil and voting rights for blacks and other minorities, limiting police abuse and governmental invasions of privacy, and defending the secular foundations of the US Constitution has placed in sharp relief the cowardice and complicity of Senate Democrats, who have shown no willingness to seriously oppose Alito's elevation to the high court. Alito's securing of lifetime tenure on the Court, replacing the "swing" vote of retiring Associate Justice Sandra Day O'Connor, will dramatically shift the Court further to the right.

The 1985 document, prepared when Alito, then 35, was seeking a promotion to deputy assistant to Attorney General Edwin Meese, outlined Alito's political and judicial agenda, revealing his adherence to the full panoply of anti-democratic policies long pursued by the most right-wing sections of the US ruling elite. (The document can be accessed at: http://news.findlaw.com/hdocs/docs/alito/111585stmnt.html)

Alito began by declaring: "I am and always have been a conservative and an adherent to the same philosophical views that I believe are central to this Administration." Those views were expressed in a brutal attack on social welfare programs, massive tax cuts for corporations and the wealthy, and government-backed union-busting, beginning with Reagan's smashing of the PATCO air traffic controllers union in 1981. These policies inaugurated the plundering of the national economy to vastly increase the wealth of the financial aristocracy at the expense of the broad mass of working people, resulting in a staggering increase in social inequality that has continued ever since.

Using legalistic euphemisms employed by the right wing, Alito wrote that he believed "very strongly in limited government, federalism, free enterprise, the supremacy of the elected branches of government, the need for a strong defense and effective law enforcement, and the legitimacy of a government role in protecting traditional values."

This translates into dismantling social programs aimed at insuring access to health, housing and education ("limited government"), ending restrictions on the power of local governments to disenfranchise ethnic minorities ("federalism"), revoking government regulations that protect workers and the environment ("free enterprise"), overturning judicial precedents that recognize and enforce individual rights ("the supremacy of the elected branches"), supporting imperialism abroad and repression at home ("a strong defense and effective law enforcement"), and sanctioning discrimination against unmarried parents, homosexuals and others not living according to the moral prescriptions of religious fundamentalists ("traditional family values").

Invoking another canard of the right wing, he continued: "In the field of law, I disagree strenuously with the usurpation by the judiciary of decision making authority that should be exercised by the branches of government responsible to the electorate." In the lexicon of the political milieu of the Reagan administration, "judicial usurpation" meant court rulings overturning anti-democratic and unconstitutional laws, such as edicts upholding racial segregation and discrimination against minorities, gays and women; laws banning abortion rights; and statutes violating the constitutional separation of church and state.

Next Alito praised the "major strides toward reversing this trend" made by Reagan in his first term, and his "hope that even greater advances can be achieved during the second term." He added, as a transparent blandishment to his prospective boss, "especially with Attorney General Meese's leadership at the Department of Justice."

Alito claimed his "deep interest in constitutional law" and his motivation to become a lawyer developed out of his "disagreement with Warren Court decisions, particularly in the areas of criminal procedure, the Establishment Clause, and reapportionment." His highlighting these three areas of jurisprudence is particularly revealing of his extremely reactionary and authoritarian legal views.

From 1953 to 1969, when Earl Warren was chief justice, the Supreme Court handed down criminal procedure rulings enforcing civil liberties laid down in the Bill of Rights and barring certain police and judicial abuses. Among the most far reaching was *Mapp v. Ohio* (1961), which recognized for the first time that the Fourth Amendment's prohibition against "unreasonable searches and seizures" applied to state and local police as well as to federal agents, and established the "exclusionary rule" barring the use of illegally seized evidence in criminal trials.

Five years later, the Warren Court decided the well-known case of *Miranda v. Arizona* (1966), mandating that police had to inform criminal suspects of their right to remain silent.

If Alito's view were to be accepted by the current Supreme Court, civil liberties would be rolled back to the era when police routinely kicked in doors and ransacked homes without warrants, and arrested people without probable cause to take them in for the "third degree."

Alito cited the First Amendment's Establishment Clause because of precedents such as *Engel v. Vitale* (1962), which invalidated a New York law requiring "non-denominational" prayers at the beginning of the school day, and *Epperson v. State of Arkansas* (1968), striking down an Arkansas law that prohibited the teaching of evolution in public schools. The judicial recognition of the strict separation of church and state underlying these rulings was considered essential to personal freedom by the nation's founders.

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Alito's attack on the Warren Court's reapportionment rulings is perhaps the most revealing of all. 1962's *Baker v. Carr* established the rule that the constitutional guarantee of equal protection meant literally "one man, one vote." As a direct result, election schemes throughout the United States, particularly in the Deep South, that effectively disenfranchised black voters had to be rewritten.

Alito wrote he was "particularly proud" of his work on government cases where he argued that "ethnic quotas should not be allowed and that the Constitution does not protect a right to an abortion." This final statement has garnered the most press attention because of heightened concerns that Alito will vote to overturn *Roe v. Wade* (1973), leaving states free to reinstate laws criminalizing abortions.

Alito wrote that his own political development as a "lifelong Republican" began with Barry Goldwater's 1964 presidential campaign, which was explicitly waged in opposition to civil rights legislation. He cited as a major influence the writings of the notorious reactionary William F. Buckley and his *National Review* magazine. Alito concluded his job application by noting that he had submitted articles to the *National Review* and another far-right publication, the *American Spectator*.

He boasted of unflagging support for Republican candidates and political causes, as well as his membership in the right-wing Federalist Society. He made a point of noting his membership in "The Concerned Alumni of Princeton University," which was formed to oppose the admission of women. Its magazine, *Prospect*, published articles opposing the use of student health fees for abortions and denouncing university rules requiring eating clubs to admit women.

In another significant passage, Alito stressed his personal satisfaction in helping to promote the Reagan administration's right-wing agenda and advancing "legal positions in which I personally believe very strongly."

Alito wrote that his intellectual development was influenced by the writings of the late Alexander M. Bickel, a radical right-wing professor who opposed the very notion of judicial review and made his reputation as a tireless critic of the Warren Court, especially its efforts to end racial segregation in the public school system.

Bickel was both a mentor to and colleague of Robert H. Bork. The intellectual and ideological link between Alito and Bork is not incidental. There is nothing of significance that distinguishes Alito's views from those of Bork, whose own nomination was defeated in 1987 on the express basis that his animus toward democratic rights and extreme right-wing outlook made him unfit for the Supreme Court.

The very fact that an individual such as Alito has been nominated to serve on the Court today and provokes only the most timid and muted opposition from the Democratic Party is a measure of the immense swing to the right of the political establishment in general, and the Democratic Party in particular.

As compromised and desiccated as Democratic Party liberalism was in the late 1980s, it was nevertheless capable of waging a struggle to keep an open opponent of basic democratic rights from a lifetime appointment to the Supreme Court. Today, however, instead of mounting serious opposition, leading Senate Democrats are providing Alito with political cover.

The cringing of the Democrats before the right wing was most clearly shown in remarks made by Senator Dianne Feinstein of California, a member of the Judiciary Committee, which will hold hearings on the Alito nomination in January, before the Senate as a whole takes up the matter.

Feinstein met with Alito on Tuesday, after the nominee's 1985 job application had been reported on the front page of major US newspapers. Feinstein emerged from the meeting and promptly dismissed the significance of the document.

"It was different then," she said. She explained that Alito told her, "'I was an advocate seeking a job, it was a political job and that was 1985.'" He now only "interpreted" the law. Feinstein added that she found Alito "very sincere" and "well-steeped in the law."

The notion that a Supreme Court justice merely "interprets the law" is a canard designed to conceal from the population the importance of the high court in determining policy. As a rule, the cases the Supreme Court reviews come before it precisely because the applicable law is either unclear or nonexistent, or the issues at stake are highly controversial and politically explosive. Determining the legal principles to resolve such matters necessarily involves policy determinations laden with political values.

Alito's suggestion that his 1985 job application cannot be given serious weight because he was trying to impress his prospective employer, if taken seriously, undermines the credibility of his coming Senate testimony. Why should his statements in pursuit of a far more prestigious job be accepted as good coin when he has already admitted that he molded his opinions to get a promotion twenty years ago? In any event, his disclaimers are not credible. The views he put forth in 1985 are the views he held then, and there is no reason to believe he has modified them.

Whatever the outcome of his hearings, the notion that the anti-democratic policies outlined in Alito's application can be fought by putting someone less objectionable on the Court, or pressuring the Democrats and Republicans, is futile. The attack on democratic rights, including civil rights, voting rights, and basic civil liberties, has an objective source—the crisis of the economic and political system of American capitalism. The Supreme Court itself is a critical institution of the state, whose fundamental purpose is to uphold the profit system and defend the basic interests of the ruling elite.

Events since the Bork episode of 1987 have revealed a further decay of democratic institutions in the US of immense proportions. The impeachment conspiracy against Clinton, the stolen election of 2000, the passage of the Patriot Act, the official sanctioning of torture, the bipartisan support for an illegal war in Iraq launched on the basis of lies have demonstrated that no section of the ruling elite, or either of its two parties, retains a genuine commitment to democratic rights.

Only the independent political mobilization of the working class on the basis of a democratic and socialist program can beat back and defeat the drive by the ruling class to strip working people of their basic rights.

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