

SOLICITOR GENERAL ELENA KAGAN

Widely-regarded as one of the nation's leading legal minds, Solicitor General Elena Kagan has forged a path-breaking career in the law and in government service, distinguishing herself throughout by her penetrating intellect, unwavering integrity, sound judgment and prodigious work ethic. With an unparalleled ability to bring together people of different backgrounds and beliefs, she has earned praise across the political spectrum for her fair-mindedness, her insistence that all views deserve a respectful hearing, and her lifelong commitment to public service. She is also widely admired and liked for her warmth, humility, and signature sense of humor.

Kagan has held an exceptionally broad range of positions touching on a wide range of issues. She has been a beloved teacher, a transformative dean of a leading law school, and the nation's top lawyer. And she has worked with all three branches of government on matters ranging from campaign finance reform to child welfare to bi-partisan tobacco legislation.

A Trailblazer throughout Her Career in Public Service and Academia

In 2003, Kagan became the first woman in Harvard Law School's 186-year history to serve as Dean. And in 2009, she became the first woman to serve as Solicitor General, the chief lawyer representing the interests of the American people before the Supreme Court. In the course of more than two centuries, 111 justices have served on the Supreme Court. Only three have been women. Kagan would be the fourth, and for the first time in its history, three women would take their places on the bench when arguments are heard in the fall.

Product of a Family that Prized Education and Service to Others

The granddaughter of Russian-Jewish immigrants, Kagan was raised by a mother who was a public school teacher, and a father who was a tenant lawyer – both of whom were the first in their families to attend college. And she was taught from an early age not just the value of a good education, but the importance of using it to serve others. Born at a time when women had few opportunities to pursue their ambitions, Kagan's mother wanted more for her daughter, and sent her to Hunter College High School, a public school for high-achieving students. Kagan calls her education there “a formative experience because it was all girls in grades 7 to 12. ‘It was a very cool thing to be a smart girl . . . and I think that made a great deal of difference to me growing up and in my life afterward.’”¹ Kagan's two brothers both became public school teachers like their mother, and Kagan ultimately followed in the footsteps of both of her parents — she became an accomplished lawyer and beloved teacher. She credits her parents for drilling into her “the importance of service, character, and integrity” – values that have guided every step of her remarkable career.²

A Remarkable—and Remarkably Broad--Career in the Law

After graduating at the top of her class from Princeton University (*summa cum laude*) and Harvard Law School (*magna cum laude*), Kagan went on to clerk for two giants in law and public life: Abner Mikva, on the U.S. Court of Appeals for the D.C. Circuit, and Justice Thurgood Marshall, who was himself the Solicitor General before he became a Supreme Court Justice. Kagan has called Justice Marshall the “greatest lawyer of the 20th century,” and has

¹ Nina Totenberg, *Solicitor General Holds Views Close to Her Chest*, NPR (Dec. 22, 2009), available at <http://www.npr.org/templates/story/story.php?storyId=121712227>.

² http://judiciary.senate.gov/hearings/testimony.cfm?id=3649&wit_id=7600

written admiringly of his “great lawyer’s talent (a talent many judges do not possess) for pinpointing a case’s critical fact or core issue,” which resulted from his “understanding of the pragmatic – of the way in which law worked in practice as well as on the books, of the way in which law acted on people’s lives.”³

Scholar Who Understands the Impact of the Law on People’s Lives

As a constitutional and administrative law professor at the University of Chicago and Harvard, Kagan’s scholarship focused not on abstract legal theory, but on issues that speak to how our laws affect the lives of the American people. Her early writings make a compelling case against government interference in our First Amendment rights. Her later work in administrative law draws on lessons learned during her time in government and analyzes policy-making efforts on issues ranging from the environment, to children’s health, to work-life balance. In 2001, Kagan published “Presidential Administration” in the *Harvard Law Review*, a widely-acclaimed piece that was honored as the year’s best scholarly article by the American Bar Association. At both Harvard and Chicago, Kagan was adored by her students for her inspired teaching and praised by her colleagues for her wise counsel and influential scholarship.

White House Aide: Bringing People Together to Solve Problems in Washington

Kagan also has a firsthand understanding of how Congress and presidential administrations do their work on behalf of the American people. Serving as a legal and policy aide for President Bill Clinton, Kagan worked with Democrats and Republicans on legislation to stop large tobacco companies from targeting children with deceptive advertisements and addictive products.⁴ Kagan worked tirelessly through months of painstaking negotiation to get the legislation passed. Kagan’s talents did not go unnoticed: In 1999, President Clinton nominated Kagan, then 39, to the D.C. Circuit – to the same seat later filled by Chief Justice John Roberts.

Dean of Harvard Law School: Uniting a Community and Inspiring Students to Serve

Named Dean of Harvard in 2003, Kagan faced a school where, as the Boston Globe noted, “students felt estranged...” and the “faculty was fractious.” She immediately got to work reaching out to students from different backgrounds, hiring faculty with a wide range of judicial philosophies – liberals and conservative alike – seeking to spur a healthy debate and respectful exchange of ideas on campus. *The Boston Globe* reported that she is credited with “galvaniz[ing] the place with her ambition and adroit management style, knitting together the faculty, charming the students, and attracting top-flight talent to the school.”⁵

Kagan’s success at Harvard is ultimately best measured by the genuine affection she inspired from students – affection that prompted 600 students to throw her a party and don “I [heart] Elena” T-shirts. It’s measured by the annual bidding war among students for the poker night she offers to host in the school’s charity auction to support students who work in public interest jobs. It is measured by the campus military veterans who turn out for the Veterans Day dinners she hosted at her home each year and all the students who sought her advice and counsel. And it’s measured by the thunderous applause she received when speaking to student groups on campus –

³ Elena Kagan, *In Memoriam: For Justice Marshall*, 71 *Tex. L. Rev.* 1125 (1993).

⁴ Dana Milbank, *Wonderwonk*, *The New Republic*, May 18, 1998. In 1998, Senator McCain complimented Kagan, along with other members of the tobacco negotiation team, as “fine a people as I have dealt with” and “vital to the progress” made at that time. Transcript, McCain Remarks to National Health Council, July 30, 1998.

⁵ Drake Bennett, *Crimson Tide: Harvard Law School, long fractious and underachieving, is on the rise again - and shaking up the American legal world*, *Boston Globe*, Oct. 19, 2008.

from the conservative Federalist Society to the progressive American Constitution Society, both of which wrote the Senate Judiciary Committee in support of her nomination for Solicitor General.

Throughout her tenure as dean, Kagan sought to teach her students the core lesson she learned from her father — that lawyers should serve their community, and that Harvard students have a particular responsibility to use their elite training to help those in need. Under Kagan’s leadership, Harvard expanded loan forgiveness programs for students entering public service careers; and dramatically increased the number of legal clinics, allowing more students than ever before to provide needed services on issues ranging from child advocacy to housing law to domestic violence.

Solicitor General: Bipartisan Support for Standing Up to Entrenched Interests

Last year, Kagan received widespread support from Republicans and Democrats when she was confirmed to serve as Solicitor General. And her tenure as Solicitor General has been marked by her efforts to protect the American people from the outsized influence of entrenched interests. Under her leadership, the Solicitor General’s office has defended the security interests of the United States; worked to protect shareholders and investors against unscrupulous corporations; and defended bipartisan campaign finance reform against corporate interests seeking to spend unlimited amounts of money to influence our elections.

Leadership That Inspires the Confidence of Democrats and Republicans

Kagan is renowned not just for her formidable talents as a lawyer, but for her even-handedness and fair-mindedness – traits that have won her the respect and admiration of members of the legal community from across the spectrum. As her former law school classmate, John Manning put it: “She is fair- and open-minded; it is just part of who she is.” Peter Keisler, a Bush Administration lawyer, noted that Kagan is “brilliant, thoughtful, independent, and creative, but without even a hint of the arrogance that sometimes accompanies such talent.” And every Solicitor General over the last quarter century – Republicans and Democrats alike – endorsed Kagan’s nomination for Solicitor General. In a joint letter to the Judiciary Committee, they praised her “breadth of experience,” her record “as one of the most successful law school deans in modern times,” her “directness, candor and frank analysis” – and they noted the “high regard in which she is held by persons of a wide variety of political and social views.”

Jack Goldsmith, the former head of the Office of Legal Counsel in the Bush Administration, may have put it best, saying Kagan “*combines principle, pragmatism, and good judgment better than anyone I have ever met.*”:

“Kagan does this by listening to all sides of an argument, by engaging interlocutors honestly and empathetically, and by exercising her judgment openly and with good reasons. This is obviously an important quality in her job of trying to find five votes for the government’s position among justices who rarely agree. It might seem over the top to say that Kagan combines principle, pragmatism, and good judgment better than anyone I have ever met. But it is true.”