



Statement on the Nomination of Elena Kagan to the Supreme Court

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Concerned Women for America (CWA) is the nation's largest public policy women's organization with over 500,000 members around the country and the issue of judicial activism is at the very top of our concerns as it touches every other issue we care about, such as life, religious liberty and pornography.

Contrary to the "blank slate" the White House media machine has tried to sell the American people, an objective review of Elena Kagan's record reveals a surprisingly clear picture of who she is. Kagan's record is that of a liberal political soldier, not an impartial jurist.

One of the best examples of this is the way she handled the military issue at Harvard. In direct violation of the law, Kagan kicked the military out of Harvard because she claimed it was "a moral injustice of the first order." She then took her *moral* argument and turned it into a *legal* one in a brief before the Supreme Court against the Solomon Amendment. Kagan effectively asked the court to overlook the clear meaning of the statute and rule in her favor, perhaps appealing to their "empathy" towards homosexuals. Not surprisingly the Supreme Court *unanimously* rejected her argument.

And that is the real danger of this nomination. If Kagan, even with her radically liberal ideology, had a clear record of respect for the Constitution and judicial restraint, then we would not have this problem. But when you believe, as Kagan has stated, that judges can "steer the law in order to promote certain ethical values and achieve certain social ends," then it is clear your impartiality must be questioned and you should never be a judge anywhere, least of all on the highest court in the land.

This issue is beyond politics. CWA would oppose a judge willing to circumvent the law to achieve the results we want. Judges must follow the law and the Constitution as written.

CWA members and state leaders from several states around the country came yesterday to the Capitol to talk to their senators about this nomination. They expressed a feeling that is palpable to them at the state level: Americans believe the real problem we have is an Executive, Legislative and Judicial branch that continually overstep their Constitutional boundaries. And we are tired of it.

Elena Kagan's nomination is just the latest symptom of this disease that has infected Washington, D.C. She should never be confirmed as the next justice of the Supreme Court.

CONCERNED WOMEN FOR AMERICA

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