



Written by [Mary McHugh](#) on June 29, 2010

Concerned Women for America Labels Kagan: “Liberal Political Careerist”

Our Founding Fathers, being God-fearing men, incorporated the essence of God’s commandment — “Thou Shalt Not Kill” — into the Declaration of Independence to affirm our right to life as being of divine origin. It says:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are *life*, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men....” (Emphasis added.)



Notice the Declaration not only says that we have the right to life, but that governments are brought into existence in order to protect that right.

Then there is the Preamble to the Constitution. As former Presidential candidate Alan Keyes is fond of pointing out, the Preamble says the Constitution was created to “... secure the Blessings of Liberty to ourselves and our *Posterity*” — i.e., the protections of the Constitution also apply to those future Americans not yet born. (Emphasis added.)

Not only is this right to life anything but protected in our times, but abortion rights are the so-called law of the land. What kind of savages are now in our midst — we descendants of these life-loving Founders ? Did they ever imagine what would become of, among other things, their hard-won right to life?

Which brings us to the matter of current Solicitor General Elena Kagan, Presidential nominee to the United States Supreme Court.

A recent article on [FoxNews.com](#) by Peggy Young Nance, CEO of Concerned Women for America, raises several questions about Kagan and her track record regarding this American guarantee of “right to life.” Although it is encouraging that many of the up-and-coming candidates for federal political office are refreshingly and unabashedly pro-life, it does not appear that the same spirit drives nominee Kagan.

With the recent “discovery” by a British medical association that fetuses may not feel pain before 24-weeks’ gestation — apparently meaning we can now kill them with a clearer conscience — the Kagan “File” reveals much of the same foot-dragging, obfuscating efforts on behalf of helpless babies, in contrast to her riveting interest on behalf of the mothers seeking to kill them. Though saying that there are other options out there for protecting women, papers released by the Clinton Presidential Library state Elena Kagan’s assertion that “the so-called partial birth abortion” procedure is the only certain way to protect the “health of women” and should remain legal. We need hardly remind anyone that partial birth abortion is taking partly born babies and killing them by sucking out their brains. Whales, seals, and circus elephants have more government protection than that.



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But back to Elena Kagan — [speaking](#) at her senate confirmation hearing on June 28, she calmly assured one and all of her intention to be impartial and moderate if confirmed for the Supreme Court. As the nominee of President Barack Obama, one of the most liberal and pro-abortion senators of his time, and seemingly unchanged as President, it is hardly to be hoped that Kagan would rule in favor of laws protecting rights of the unborn. He would not nominate her if he had a doubt about which way she would vote on this or probably any other ethical issue, preferential rights for the GLBTs (gay, lesbian, bisexual or transgender) included.

The FoxNews article continued:

This should come as no surprise. Kagan has as strong a pro-abortion record as anyone, dedicating her life to serving and supporting those who believed in “a woman’s right to choose” to end the life of her unborn child. From contributing to the pro-abortion National Partnership for Women and Families to working for pro-abortion candidates like Michael Dukakis and President Obama to clerking for pro-abortion judges like Judge Abner Mikva and Justice Thurgood Marshall, Kagan has been a loyal soldier of their horribly destructive cause.

In another astounding departure from the mainstream, Kagan strongly criticized the Supreme Court decision in *Rust v. Sullivan* in which the Court upheld the constitutionality of regulations that prohibit federal funds from being “used in programs where abortion is a method of family planning.”

Again, though most Americans — even many who consider themselves “pro-choice” — easily understand that the least we can do is prohibit taxpayer dollars from being used to promote abortion, Kagan proudly stands with the most radical pro-abortionists in arguing the regulations amount to unconstitutional “viewpoint discrimination.” She wrote:

How better, then, to communicate an anti-abortion message: through direct speech or through selective subsidization of health care providers? The latter course amplifies the government’s own message at the same time as (and partly because) it wreaks havoc on the ability of those private parties in the best position to challenge the message to provide a counterweight to government authority.

The article goes on to recount Kagan’s inability to apply the rule of law in defense of all human life. When working for the Clinton Administration, she advised the president to “support a counterfeit compromise” to the Partial-Birth Abortion Ban, though she believed it to be unconstitutional. Kagan wrote to Clinton, “The Office of Legal Counsel of the Justice Department similarly believes that both the Daschle and the Feinstein amendments, properly read, violate *Roe* because they countenance tradeoffs involving women’s health,” and she later further recommended that he “endorse the Daschle amendment in order to sustain your credibility ... and prevent Congress from overriding your veto.”

As has been the oft-heard opinion from many during the days leading up to these confirmation hearings, Elena Kagan has shown herself more politically-interested than law-oriented. Even the liberal Democrat Senator Herb Kohl of Wisconsin told Kagan: “Your judicial philosophy is almost invisible to us,” and urged her to engage in “substantive and candid dialogue.”

Candid dialogue is unlikely be forthcoming, however, because Kagan wants the appointment and will not get it if she makes known her how much she prefers judicial activism to strict interpretation of the law. As Peggy Nance noted in her review and her own alarming conclusion:

No matter how hard the White House media machine tries to push Kagan as an “unknown,” one



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look at her record reveals a nominee with a real problem accepting facts that go against her preferred policy choices. And if confirmed to a lifetime appointment to the highest court of the land, she will be free to ignore those facts to promote her social agenda.

Elena Kagan is a liberal political careerist, not a judicial scholar. The record shows her sense of politics can outweigh her respect for the law and the Constitution when it comes to certain issues she cares about, like abortion. She should not be confirmed as the next Associate Justice of the Supreme Court.

Photo: Senate Judiciary Committee Chairman Sen. Patrick Leahy (D-Vt.) swears in Supreme Court nominee Elena Kagan on Capitol Hill on June 28, during her confirmation hearings before the committee: AP Images



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