

**Opening Statement of Solicitor General Elena Kagan
Nominee for Associate Justice of the United States Supreme Court
June 28, 2010**

Thank you very much, Mr. Chairman, Senator Sessions, and members of the Committee.

I'd like to thank Senators Kerry and Brown for those generous introductions.

I also want to thank the President again for nominating me to this position. I'm honored and humbled by his confidence.

Let me also thank all the members of the Committee, as well as many other Senators, for meeting with me in these last several weeks. I've discovered that they call these "courtesy visits" for a reason; each of you has been unfailingly gracious and considerate.

I know that we gather here on a day of sorrow for all of you, for this body, and for our nation, with the passing of Senator Byrd. I did not know him personally, as all of you did, but I certainly knew of his great love for this institution, his faithful service to the people of his state, and his abiding reverence for our Constitution, a copy of which he carried with him every day – a moving reminder to each of us who serves in government of the ideals we must seek to fulfill. All of you, and all of Senator Byrd's friends and family, are in my thoughts and prayers at this time.

I would like to begin by thanking my family, friends, and students who are here with me today. I thank them for all the support they've given me, during this process and throughout my life. It's really wonderful to have so many of them behind me.

I said when the President nominated me that the two people missing were my parents, and I feel that deeply again today. My father was as generous and public-spirited a person as I've ever known, and my mother set the standard for determination, courage, and commitment to learning.

My parents lived the American dream. They grew up in immigrant communities; my mother didn't speak a word of English until she went to school. But she became a legendary teacher and my father a valued lawyer. And they taught me and my two brothers, both high school teachers, that this is the greatest of all countries, because of the freedoms and opportunities it offers its people. I know that they would have felt that today, and I pray that they would have been proud of what they did in raising me and my brothers.

To be nominated to the Supreme Court is the honor of a lifetime. I'm only sorry that, if confirmed, I won't have the privilege of serving there with Justice John Paul Stevens. His integrity, humility, and independence, his deep devotion to the Court, and his profound commitment to the rule of law – all these qualities are models for everyone who wears, or hopes to wear, a judge's robe. If given this honor, I hope I will approach each case with his trademark care and consideration. That means listening to each party with a

mind as open as his to learning and persuasion and striving as conscientiously as he has to render impartial justice.

I owe a debt of gratitude to two other living Justices. Sandra Day O'Connor and Ruth Bader Ginsburg paved the way for me and so many other women in my generation. Their pioneering lives have created boundless possibilities for women in the law. I thank them for their inspiration and also for the personal kindnesses they have shown me. And my heart goes out to Justice Ginsburg and her family today. Everyone who ever met Marty Ginsburg was enriched by his incredible warmth and generosity, and I'm deeply saddened by his passing.

Mr. Chairman, the law school I had the good fortune to lead has a kind of motto, spoken each year at graduation. We tell the new graduates that they are ready to enter a profession devoted to "those wise restraints that make us free." That phrase has always captured for me the way law, and the rule of law, matters. What the rule of law does is nothing less than to secure for each of us what our Constitution calls "the blessings of liberty" – those rights and freedoms, that promise of equality, that have defined this nation since its founding. And what the Supreme Court does is to safeguard the rule of law, through a commitment to even-handedness, principle, and restraint.

My first real exposure to the Court came almost a quarter century ago when I began my clerkship with Justice Thurgood Marshall. Justice Marshall revered the Court – and for a simple reason. In his life, in his great struggle for racial justice, the Supreme Court stood as the part of government that was most open to every American – and that most often fulfilled our Constitution's promise of treating all persons with equal respect, equal care, and equal attention.

The idea is engraved on the very face of the Supreme Court building: Equal Justice Under Law. It means that everyone who comes before the Court – regardless of wealth or power or station – receives the same process and the same protections. What this commands of judges is even-handedness and impartiality. What it promises is nothing less than a fair shake for every American.

I've seen that promise up close during my tenure as Solicitor General. In that job, I serve as our government's chief lawyer before the Supreme Court, arguing cases on issues ranging from campaign finance, to criminal law, to national security. And I do mean "argue." In no other place I know is the strength of a person's position so tested and the quality of a person's analysis so deeply probed. No matter who the lawyer or who the party, the Court relentlessly hones in on the merits of every claim and its support in law and precedent. And because this is so, I always come away from my arguments at the Court with a renewed appreciation of the commitment of each Justice to reason and principle – a commitment that defines what it means to live in a nation under law.

For these reasons, the Supreme Court is a wondrous institution. But the time I spent in the other branches of government remind me that it must also be a modest one – properly deferential to the decisions of the American people and their elected representatives.

What I most took away from those experiences was simple admiration for the democratic process. That process is often messy and frustrating, but the people of this country have great wisdom, and their representatives work hard to protect their interests. The Supreme Court, of course, has the responsibility of ensuring that our government never oversteps its proper bounds or violates the rights of individuals. But the Court must also recognize the limits on itself and respect the choices made by the American people.

I am grateful, beyond measure, for the time I spent in public service, but the joy of my life has been to teach thousands of students about the law, and to have had the sense to realize that they had much to teach me.

I've led a school whose faculty and students examine and discuss and debate every aspect of our law and legal system. And what I've learned most is that no one has a monopoly on truth or wisdom. I've learned that we make progress by listening to each other, across every apparent political or ideological divide. I've learned that we come closest to getting things right when we approach every person and every issue with an open mind. And I've learned the value of a habit that Justice Stevens wrote about more than fifty years ago – of “understanding before disagreeing.”

I will make no pledges this week other than this one – that if confirmed, I will remember and abide by all these lessons. I will listen hard, to every party before the Court and to each of my colleagues. I will work hard. And I will do my best to consider every case impartially, modestly, with commitment to principle, and in accordance with law.

That is what I owe to the legacy I share with so many Americans. My grandparents came to this country in search of a freer and better life for themselves and their families. They wanted to escape bigotry and oppression – to worship as they pleased and work as hard as they were able.

They found in this country – and they passed on to their children and their children's children – the blessings of liberty. Those blessings are rooted in this country's Constitution and its historic commitment to the rule of law. I know that to sit on our nation's highest court is to be a trustee of that inheritance. And if I have the honor to be confirmed, I will do all I can to help preserve it for future generations.

Thank you, Mr. Chairman. And thank you, members of the Committee.