

Q & A: Tony Yang

Michael Sean Winters | Jul. 16, 2010 Distinctly Catholic

This week, we have been discussing the nomination of Elena Kagan to the Supreme Court. Today, we hear from Tony Yang, a lecturer at the University of California at Riverside.

The question: What is the best reason to vote to confirm, or not to confirm, Elena Kagan to the Supreme Court?

Tony Yang:

As I was working out at the University of California, Riverside's Student Recreation Center, a large crowd of students, thirty or so, gathered around the television at 6 o'clock on a Thursday evening. Everyone waited with breathless anticipation as "The Decision" was announced, and LeBron James shook the basketball world by announcing his intention to join the Miami Heat. While I too was engrossed in the drama of the NBA off-season, I felt a twinge of conscience.

It was so easy to attract young people to view the drama of sports entertainment, but so difficult to draw their attention to the very real problems in democracy and our government. I currently am teaching a summer course in History on the Supreme Court and the Constitution from the 1930s to the present. I struggle to articulate the importance of the role of the courts, and the contradictions inherent in our democratic principles to my students. Where does individual liberty meet individual responsibility? When is government intervention appropriate? When should the courts dictate policies, and what values do these policies reflect?

That's why I strongly support the nomination of Elena Kagan for Associate Justice of the United States Supreme Court. Professor Kagan spent most of her career teaching law. By all accounts she is a highly respected teacher who took joy in teaching, as evidenced by her opening remarks thanking her students. At Harvard, she took steps to balance the ideological composition of the traditionally liberal law schools, adding conservative faculty members to the school. That's why she needs to be confirmed. Professor Kagan understands the wide spectrum of views on the constitution. Even more importantly she understands why it has to be taught. After class one day, two of my students expressed how difficult a time they've had trying to come to terms with the constitutional crises that we examine in the course. They see how tremendously difficult it is to navigate the gray areas our laws and values. They were, because of the course, challenged to think about what happens when values and interpretations come into conflict.

Professor Kagan's addition to the court will perhaps not shift the balance of the court, but it will shift the tenor. Many court decisions are filled with legal jargon and technicalities. But Kagan the teacher, not professional jurist, will be able to articulate, more than most, the Court's rulings to the public at large, and help advance public discourse. None of the last three confirmed justices have taught law at law schools.

My only small quibble with Kagan's nomination is that she is another Ivy League law school graduate. There are many fine jurists for whom Stanford, or the University of California, law schools have ably prepared them for the Supreme Court. Western legal traditions also reflect much more moderation and pragmatism than that of our Ivy League counterparts who may deal in more abstract ideology. The moderation and pragmatism of the West reflects the nation as a whole, not the abstract debates in East Coast Ivory Towers. Nonetheless, my rampant regional favoritism aside, Elena Kagan should be confirmed.