

Subscribe and save 71% [Subscribe](#)

FREE daily e-

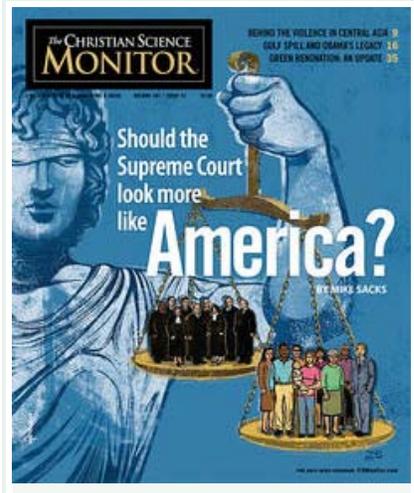
Elena Kagan: Would she turn Supreme Court into We the People?

Elena Kagan, if confirmed as the next Supreme Court justice, would shift the balance dramatically - with three women and a Jewish-Catholic bloc. So would the high court look like We the People?

(Page 3 of 6)

Like You and 57 others like this. 57 people like this. · Admin Page · Error Unlike

Yet when it came time for Sotomayor to defend her speech, she repeatedly demurred, casting herself as a strict constructionist on the Constitution's text and history.



This article is the cover story of the June 28 issue of The Christian Science Monitor weekly magazine. [Enlarge](#)

Graphic Chart: Majority of Supreme Court justices hail from east of the Mississippi

Related Stories

[Elena Kagan: former solicitors general back](#)

Unseized upon by either side in the Sotomayor hearings was her comment in the same "wise Latina" speech that "Justice Clarence Thomas represents a part but not the whole of African-American thought on many subjects." Indeed, his personal experience with affirmative action left him feeling as if he'd been stamped with a "badge of inferiority," as he put it in a 1995 opinion. To this day, according to his autobiography, his Yale diploma, upon which he placed a sticker reading "15¢," sits in his basement.

•••

But diversity as simply an aesthetic versus experience that comes to bear in interpreting the law will not disappear. It affects every potential next "first" on the court - such as the first Asian-American, the first gay, or the first atheist.

But are identity politics antithetical to an independent judiciary?

"The court is not a representative body, and it's not clear its function is to be a representative body in any way," says Barry Friedman, vice dean of the New York University Law School in New York City and author of

More USA

Arizona immigration lawsuit: Obama sails into a political storm

About these ads

[Subscribe to the weekly MONITOR and SAVE 71%](#)

Most viewed

1. Glenn Beck's 'demagoguery' threatening Republican party, says veteran GOP lawmaker
2. Oakland riots produce multiple arrests and damage following fatal shooting verdict
3. Blog: Solar eclipse: Only the rich will be able to view this one
4. Blog: Octopus Paul has thunder stolen by Mani the Parakeet
5. Top Kill 2: BP aims to turn off Gulf oil spill spigot soon
6. Were deported Russian spies as incompetent as they seemed?
7. Vuvuzela fatwa: United Arab Emirates bans the loud plastic horns
8. Six lessons from the BP oil spill
9. Anna Chapman deported to Russia, British tabloids will miss her
10. Arizona immigration lawsuit: Obama sails into a political storm

Supreme Court nominee

Supreme Court confirmations, as Elena Kagan saw them

Obama cites 'temperament' of Kagan, Supreme Court nominee

Opinion: **Elena Kagan: Would she embody empathy as a Supreme Court justice?**

"The Will of the People: How Public Opinion Has Influenced the Supreme Court and Shaped the Meaning of the Constitution." However, Mr. Friedman concedes, "in deciding legal questions, it does become important for the court's long-term credibility to reach conclusions that are acceptable to the American people."

Photos of the day

07.09.10 >>



One way to stay credible is to have justices whom Americans identify with and admire.

"As a minority, it is gratifying and yes, important, for me to see people of color on the Supreme Court and in other positions of leadership," says Viet Dinh, a law professor at Georgetown University in Washington, D.C., and a former high-ranking official in George W. Bush's Department of Justice. "When I see a Justice Thomas or a Justice Sotomayor," continues Mr. Dinh in an e-mail interview, "I am inspired by their example, for the simple reason that they have overcome so much, that they made it there not because of their race, but in spite of it."

Dinh, too, may one day be another's inspiring example. A prominent conservative lawyer who came to the United States in 1978 as a 10-year-old Vietnamese refugee; clerked for Justice Sandra Day O'Connor; and went on to help draft the USA Patriot Act after the terrorist attacks of Sept. 11, 2001; he could very well end up on a Republican president's shortlist for a Supreme Court vacancy.

And if high-profile nominations to the federal courts of appeal are any indication of which demographic is next in line for Supreme Court representation, Asian-Americans appear to be on deck.

Mr. Obama recently nominated Goodwin Liu, whom The New York Times called a "liberal legal rock star," to the San Francisco-based Ninth Circuit Court of Appeals. Professor Liu, a 39-year-old University of California, Berkeley, law professor, has faced the kind of Republican Senate scrutiny reserved for lower-court nominees whose confirmations appear to be little more than steppingstones to the Supreme Court.

In endorsing Liu, the National Asian Pacific American Bar Association (NAPABA) trumpets on its website his many qualifications, then states that the "confirmation of Professor Liu would help promote diversity in the federal judiciary, where Asian Pacific Americans are significantly underrepresented." Such a broad reason for support could as easily apply to Dinh, despite his and Liu's ideological differences.

SUPREME FACTS

Of **111** justices since 1789:

- * **53** was the average age at appointment
- * **36** served in the military
- * **11** had no children
- * **6** never married

In Pictures



Space photos of the day 07/09

Inside CSMonitor.com:



PTSD: New regs will make it easier for war vets to get help

As many as 300,000 war vets from Iraq and Afghanistan have experienced post-traumatic stress disorder. Now, the process for getting treatment and compensation for PTSD is being streamlined.

Put off by the LeBron James spectacle? Here's a redeeming virtue.

LeBron James and his superteam: Player collusion or OK?

Australia plan to divert asylum seekers gets cool reception

Global News Blog

PLA 'Beat It' video: Is being cheeky about China's military risky business?

About these ads

FREE Daily Digest E-mail

CSMonitor.com top stories, cartoons and photos

Sign up!

- * **4** were divorced
- * **3** did not have a private law practice
- * **39** were not judges before appointment
- * **39** were Episcopalian
- * **18** attended and 14 graduated from Harvard Law School
- * **26** were from judicial families
- * **41** had fathers who held public office
- * **39** grew up in urban or small-city settings
- * **40** grew up on family farms, family plantations, or rural settings
- * **31** grew up in small towns



[See sample](#) | [Privacy Policy](#)

What happens when ordinary people decide to pay it forward? Extraordinary change. See how *individuals are making a difference...*



Srikumar Rao speaks to a gathering of former students at the Glen Cove (N.Y.) Mansion on Long Island. They all took his 'Creativity and Personal Mastery' course.

A business course that puts personal growth on the bottom line

Something of a rock star among business school teachers Srikumar Rao offers a class that gives his students broader perspectives on their lives.

Become part of the Monitor community

15,200 Fans | 5,740 on Twitter | 700K RSS subscribers



Follow us on [Twitter](#) and [Facebook](#).



[Like](#) You and 57 others like this. 57 people like this. · Admin Page · [Error](#) [Unlike](#)

Subscribe to the new weekly Monitor and save 71%!

Get 4 FREE issues ►►



THE CHRISTIAN SCIENCE MONITOR

Science »



Discoveries: Octopus Paul has thunder stolen by Mani the Parakeet

World »



Africa Monitor: South Africa jazz great Hugh Masekela prays for peace

The Culture »



Despicable Me: movie review

World »



Tour de France 101: Where does it go?

USA »



Emmy nods: Conan O'Brien gets his day as TV landscape evolves

World »



Tour de France 101: Is this a race of individuals or teams?

Ads by Google

[\(About these\)](#)

Free Consultation

Immigration attorney in Boston and throughout New England. Call today. www.solowisbell.com

Harvard School Of Law

Sponsored Links

Booking Agency
Grabow Entertainment Agency
Business Resources
Business Cards
Checks
Computers

Graphic Design
Logo Design - LogoBee
Real Estate
International Shipping
Mortgage Calculator
Moving
Moving Companies

Speakers Bureau
Christian Speakers
Motivational Speakers
Sports Speakers Bureaus
Web Services
Dedicated Servers
Web Hosting

Local Guides

Alabama
Alaska
Arizona
Arkansas
California

Maximize Your Chances of Acceptance At Harvard School of Law!
www.admissionsconsultants.com

Credit Card Debt Relief
Get Low Payments & Save More Apply for Credit Card Debt Relief
FreedomFinancialNetwork.com



Ads by Google

[PowerEdge Memory](#) [Real Estate](#)
[Charitable Donations](#)
[Car Donations](#)
[Boat Donations](#)

[Colorado](#)
[Connecticut](#)
[DC](#)
[Delaware](#)
[Florida](#)
[Georgia](#)
[Hawaii](#)
[Idaho](#)
[Illinois](#)

[Harvard School Of Law](#)

Maximize Your Chances of Acceptance At Harvard School of Law!
www.admissionsconsultants.com

[Sotomayor's Nomination](#)

President Obama Nominates Sonia Sotomayor For The Supreme Court
AARP.org

[California Family Law](#)

Fathers Rights Custody Visitation Consultations Available Today
www.FamilySolutionCenters.com

Ads by Google

[About these ads](#)

[Home](#) | [About](#) | [Site Map](#) | [Monitor Topics](#) | [Contact Us](#) | [Subscribe](#) | [Text](#) | [Specials](#) | [Multimedia](#) | [Make Us Your Home Page](#)
[Careers](#) | [Corrections](#) | [Find us online](#) | [Advertise With Us](#) | [Monitor Mall](#) | [Today's Article on Christian Science](#)

© The Christian Science Monitor. All Rights Reserved. [Terms](#) under which this service is provided to you. [Privacy Policy](#).