

## CORRECTING THE RECORD: ELENA KAGAN URGED SUPPORT FOR MODERATE POSITIONS ON ISSUES RELATED TO ABORTION

**RHETORIC:** Critics suggest that in 1997, as an aide to President Clinton, Elena Kagan devised a strategy to sustain a Presidential veto of a ban on partial birth abortion and that her work in the White House demonstrates personal support for abortion rights.

**Elena Kagan advised President Clinton to support a ban on partial birth abortion with a narrow exception for the life and health of the woman.**

**FACT:** As she explained again today to the Senate Judiciary Committee, Kagan edited a statement to **clarify** the American College of Obstetricians and Gynecologists' (ACOG) position on the ban. She in **no way altered the organization's conclusions**, but merely proposed language to fully **explain the organization's own findings**. The ACOG's executive board reaffirmed the statement in 2000 and 2004, dispelling any possible doubts that it does not represent ACOG's independent assessment.

**FACT:** In a May 1997 memo to President Clinton, Kagan recommended that he support either of two compromise amendments banning partial birth abortion. **Both amendments included a ban on partial birth abortion**, but with health exceptions for the mother. Kagan's memo described one of the amendments in detail, stating, "Enactment of the Daschle alternative **allows Congress to pass a comprehensive, constitutional ban to stop unnecessary abortions of viable fetuses and is a ban that you would sign.**" Congress ultimately passed a ban on partial birth abortion without a health exception, which President Clinton vetoed. Congress was unable to override the Presidential veto.

**Former White House staffers of both parties agree that Elena Kagan's job at the White House was to advance President Clinton's priorities—not her own.**

**FACT:** Tevi Troy, Deputy Director of the Domestic Policy Council in the Bush White House—the same position Kagan held in the Clinton White House—said the job of anyone in this position is to "**synthesize the views of the various administration players**, informing the president and the chief of staff of the source and extent of disagreements." Troy noted, "[w]hen my own DPC memos are released eventually, they will reveal **summaries of the various perspectives rather than full-throated defenses of my own personal beliefs.**" (*Politico*, May 27, 2010)

**FACT:** High-level staffers from the Clinton White House confirm that Kagan was simply working to carry out President Clinton's initiatives during her time there. According to former White House Chief of Staff John Podesta, "Her role was really to implement policies that were set by President Clinton. . . . She gave [the President] advice . . . but **that doesn't imply anything other than that she was trying to support the president.**" (*Politico*, May 19, 2010)