

- **Harvard Faculty Hiring**

Guy-Uriel Charles criticizes Kagan’s hiring record here <http://coloredemos.blogspot.com/2010/04/some-questions-about-elena-kagan.html>
Key graph:

When Elena Kagan was Dean of the Harvard Law School, she hired 29 tenured or tenure-track faculty members. But she did not hire a single black, Latino, or American Indian faculty member. Not one, not even a token. Of the 29 people she hired, all of them with one exception were white. Under Kagan's watch Harvard hired 28 white faculty members and one Asian American How could she have brokered a deal that permitted the hiring of conservatives but resulted in the hiring of only white faculty? Moreover, of the 29 new hires, only six were women. So, she hired 23 white men, 5 white women, and one Asian American woman. Please do not tell me that there were not enough qualified women and people of color. That's a racist and sexist statement. It cannot be the case that there was not a single qualified black, Latino or Native-American legal academic that would qualify for tenure at Harvard Law School during Elena Kagan's tenure. To believe otherwise is to harbor troubling racist views.

Several problems with Charles’ analysis:

- The numbers are misleading. **They do not account for a very critical part of the picture – the numbers of offers Kagan made to minority and women scholars.** The numbers Charles cites reflect the yield – *i.e.*, how many professors accepted Harvard’s offer to join the faculty. They tell you nothing about Kagan’s efforts to reach out to minority and women scholars and to increase faculty diversity. On this score, Kagan’s record is impressive. (The names of the scholars who were extended offers are protected by the Law School’s confidentiality policy; the statistical information below can be shared.)

Total Visiting Professor Offers Approved by the Lateral Appointments Committee to Minorities and Women, 2003-2009 (Kagan’s Deanship)

	Offers Approved:	Percentage to Minorities:	Percentage to Women:
2003-2004	30	13.3%	26.6%
2004-2005	24	20.8%	37.5%
2005-2006	59	13.5%	28.9%
2006-2007	63	17.5%	26.9%
2007-2008	67	17.9%	32.8%
2008-2009	13	23.1%	30.1%

- **The numbers Charles cite also fail to reflect other appointments/hiring/promotion divisions that enhanced diversity.**
 - For many years, Lani Guinier was the only woman of color on Harvard Law School’s faculty – a source of great complaint. In 2005, Kagan hired Jeannie Suk, an Asian-American woman and up-and-coming young scholar.
 - Guhan Subramanian, a South Asian law professor, was given tenure in 2004 – making him the only South Asian law professor on the faculty.
 - Kenneth Mack, an African-American legal historian, was given tenure in 2006.
 - Harvard Law School already has one of the largest group of black tenured law professors in the nation (Scott Brewer, Lani Guinier, Ken Mack, Randall Kennedy, Charles Ogletree, David Wilkins).
 - Of the 12 Clinical Professors Kagan hired, three were minorities – 25%. This included:
 - Ron Sullivan – a highly sought after African American law professor who Kagan poached from Yale University to run Harvard’s Criminal Justice Institute. (Ron was previously head of D.C.’s Public Defender Service.)
 - Brian Price – An African American professor who teaches in the area of community economic development. He is the Director of Harvard’s Transactional Law Clinics.
 - Ashish Nanda – a South Asian professor who helps run the school’s executive education program.
 - These Clinical Professor Hires are an important part of Kagan’s effort to dramatically expand public interest clinics at Harvard – important vehicles for students to get experience in public interest and to serve underserved communities in the Boston Area. She created clinics in areas like Child Advocacy; Death Penalty; Environmental Law and Policy; Gender Violence; and War Crimes. The number of students participating in clinics grew exponentially under Kagan. At the start of her deanship in 2003 there were approximately 360 clinical student placements; at the end of her deanship in 2009 the number had grown to 866, a growth of 240%.
 - Kagan’s hires were not just conservatives; *most* were liberal professors, including leading liberal academics like Jody Freeman (environmental law), Sanford Levinson (constitutional law), Mark Tushnet (constitutional law and civil rights), Noah Feldman (church-state), Michael Klarman (civil rights), and Cass Sunstein.

- **Harvard Student Diversity**

- **There was an increase in the matriculation of minority students during Kagan’s tenure at Harvard School.** In 2005, the law school admitted more African-Americans than ever before in its history. The large numbers of enrollment of black students continued throughout her deanship (averaging between 12-13%); during her tenure, Harvard Law was second only to Howard Law in producing black law graduates. The number of Hispanic students who matriculated also increased under her deanship.

	AA	H	Asian	Sum
2009	12	7	12	31%
2008	12	7	12	31%
2007	12	7	12	31%
2006	13	8	13	33%
2005	13	7	11	32%
2004	11	6	14	31%
2003	10	4	15	29%

- **African American Alumni have recognized Kagan for her commitment to diversity at Harvard Law School.**
 - At the 2005 Celebration of Black Alumni event that honored then-Senator Obama, Kagan was applauded for her work by Ted Wells (Paul Weiss Partner and active in Harvard Board) and other for her efforts to promote diversity:
 - “Dean Kagan, who I’m going to invite to the podium to present this special award, first thank you for your informative inspiring talk earlier, updating [us] on your impressive developments at Harvard Law School. And thank you for welcoming this event to Harvard Law School. Your enthusiastic support has made this celebration a wonderful event. On my way here, Ted Wells implored me to be sure that those who missed your talk earlier were aware of the extraordinary impact you’ve had on the law school. Not the least of which is the fact that last year the law school admitted more African-Americans than ever before in its history. Second only to Howard Law School in producing black attorneys.” [VIDEO, Harvard Alumni Association Event, September 2005]
 - John Payton, head of NAACP LDF, praised Kagan’s commitment to diversity and racial justice in his letter of support when Kagan was nominated to be Solicitor General:
 - “One of Dean Kagan’s first decisions at Harvard was to become the first Charles Hamilton Houston Professor of Law at Harvard Law School. That is her Dean’s Chair. This was a decision that has enormous symbolic value, but also more significantly, reflects the real content of her character. I know Dean Kagan. She combines intellectual depth with curiosity and dynamism. I am also a Harvard Law School graduate and I regularly visit the campus. Harvard Law School has undergone tremendous transformation and development under her leadership – in its curriculum, in its diversity, and in its vibrancy.”