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Mary L. Dudziak's *Exporting American Dreams: Thurgood Marshall's African Journey* (book review)

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(Nigel Rodley & C. Neale Ronning eds., 1974); *International Responses to Traumatic Stress* (Nigel Rodley, Yael Danieli & Lars Weisaeth eds., 1995).

Mary L. Dudziak, *Exporting American Dreams: Thurgood Marshall's African Journey* (Oxford Univ. Press 2008) 272 pages, ISBN 9780195329018.

I. INTRODUCTION

Justice Marshall's deeply influential role in the construction of the bill of rights for Kenya's independence constitution was largely unknown until Mary Dudziak's *Exporting American Dreams: Thurgood Marshall's Africa Journey*. The "fathers" of Kenya's independence did not seek to highlight Marshall's involvement because the positions he advocated were not populist, and would have been of little political benefit to the key actors. As a consequence, the Kenyan constitutional narrative is mostly silent on Marshall's role. Although there has not necessarily been a deliberate attempt to blot out his contribution, no one had stepped forward to give it pride of place. The result was a national amnesia of the critical work of one of the most celebrated African-Americans on the cause of Kenya's independence.

However, in 2008, a comprehensive account of Marshall's work on Kenya came from the unlikelyst of quarters. Dudziak was neither a law clerk to Justice Marshall, nor an Africanist, although she had written about race and the law in the United States. She had never visited Africa until the book was well under way and from all accounts, she had studied neither African history nor politics in any sustained manner. In addition, she is not of African descent, like some of Marshall's devoted clerks such as Randall Kennedy,

the Harvard law professor. But she is a dynamic academic with diverse and intriguing intellectual interests. A professor of law and history at the University of Southern California, Dudziak's curiosity on Kenya appears to have been triggered by her interest in race and law in the United States and Marshall's central place in the struggle for civil rights.

The result is a work for the ages. Dudziak's *Exporting American Dreams* creatively juxtaposes the African-American struggle for equality in law with the Kenyan struggle for political independence from white British colonial rule. With the lessons of both struggles ever present, Dudziak casts Marshall as a bridge between the two epochal quests for human dignity, drawing painful parallels. While Kenyans sought freedom from colonial imperial rule or external self-determination, African-Americans sought equality in a common polity dominated by white Americans or internal self-determination. Dudziak describes Marshall using his experience in the latter to positively affect the former; yet, this is where some of the tensions in Marshall's Kenya project become evident. The iconic civil rights leader and eminent jurist analogized too closely the struggle for civil rights with the struggle for independence, or majority rule.

II. CIVIL RIGHTS VERSUS SOVEREIGN INDEPENDENCE

It is easy to conflate the struggle for civil rights with the quest for national independence. Both are struggles for basic human rights, and there are obvious lessons that each can draw from the other. The key common denominator of both struggles is anti-racialism: the struggle of blacks against white domination. It is clear from Dudziak's account that it is this kinship

that drove Marshall to offer his services for the Kenyan anti-colonialist struggle.

The struggle for civil rights under an extant constitution, as was the case in the United States, is a different contest than the pursuit for black majority rule in the context of colonialism and the struggle for independence. One particular encounter demonstrates that Marshall was aware of the difference between the two struggles. On his first visit to Kenya, Marshall sought to address a meeting of Africans who had been elected for the few seats reserved for them in the colonial legislature. However, a colonial officer stopped him because he had no permit to do so. After pleading his case, he was allowed to say one word of greeting. He shouted "Uhuru," the Kiswahili word for "Freedom Now."¹ Pandemonium broke out as Africans cheered him loudly.

It is not always clear elsewhere in Dudziak's narrative that Marshall appreciated the importance of the difference between the Kenyan and African-American struggles. Although Dudziak is aware of the tension, it is not one she fully confronts. When she does, she is too quick to give the benefit of the doubt to Marshall. The book implicitly embraces the initial law and development movement, which thought that imported legal systems should deliver Africa to the project of modernity. That is how Marshall comes off in many of the reported conversations that he had with Kenyan nationalists. In part, this is why Jaramogi Oginga Odinga, the iconic left-leaning Kenya African National Union (KANU) nationalist, who became Kenya's first vice president under Jomo Kenyatta, viewed

Marshall with suspicion. Odinga thought that Marshall was a mole for US imperial interests in Kenya.²

Partially, the suspicion surrounding Marshall stemmed from his support of white property rights in Kenya. The departing British colonial authorities wanted a constitutional settlement that would protect the economic interests of white settlers. This meant guaranteeing white settlers full property rights to land that they had forcefully taken from Africans. The KANU nationalists under the leadership of Jomo Kenyatta, on the other hand, sought a strong unitary state with the power to rewrite the rules governing land. In other words, KANU wanted the transfer of white owned land to Africans without compensation. But Marshall pushed for property protections for whites, including compensation. In this, Marshall's views coincided with those of the British government. In the end, the British view won out because London would not grant independence to black Kenyans otherwise. That is why the Kenyan independence constitution, known as the Lancaster Constitution, contained very strong protections for the white minority.³ Colin Leys has suggested several reasons why the nationalists agreed and acquiesced to Marshall's view.

[T]he moderating influence of Kenyatta [leader of the nationalists]; the fear of independence being delayed; the hope of changing things after independence; a lack of interest in the detail of the negotiations; a fear that the rival party, the Kenya African Democratic Union (KADU), for whose supporters the land issue was less vital, . . . might agree to the proposed scheme

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1. MARY L. DUDZIAK, *EXPORTING AMERICAN DREAMS: THURGOOD MARSHALL'S AFRICAN JOURNEY* 44 (2008).
 2. OGINGA ODINGA, *NOT YET UHURU: THE AUTOBIOGRAPHY OF OGINGA ODINGA* 177 (1967).
 3. MAKAU MUTUA, *KENYA'S QUEST FOR DEMOCRACY: TAMING LEVIATHAN* 59 (2008).

first and perhaps manage to get KANU excluded from the transitional government; and finally, the risk of alienating the former forest fighters (Mau Mau) if they were not provided with land quickly.⁴

This dispute between Marshall and Odinga regarding the class character of the emergent post-colonial state came back to haunt the Kenyan state in the early days, and continues to vex it today. Odinga, a left-leaning nationalist favored a transformation of the colonial state to remove its oppressive conceptual bases and structures. Kenyatta, on the other hand, was inclined towards a more conservative orientation for the state. Tom Mboya, another pivotal Kenyan independence leader, allied himself with Kenyatta against Odinga. Dudziak gives Mboya, a charismatic figure, a long and admiring treatment in the book.⁵

Dudziak draws many favorable parallels between Mboya and Marshall. Perhaps the most important is both men's proclivity for moderate temperaments in politics. Both men abhorred radicalism and communism. Marshall was even opposed to the sit-ins organized by the NAACP. Both men were more comfortable with the notion of respect for free markets, private property rights, and staid concepts of the rule of law even in the face of unjust systems. Mboya was rumored to have worked for the CIA and Marshall would later travel in Africa at the behest of the State Department to burnish

America's image despite the violence meted on African-Americans by a racist power structure. Yet the pictures of both Marshall and Mboya in Dudziak's book are endearing. Perhaps here Dudziak betrays a soft spot for the project of political gradualism, as opposed to the revolutionary movements of the day. In this, there is an implicit rejection of socialism or social democracy, which Odinga advocated, and an embrace of the possibility of a capitalist political democracy, which Kenyatta, Marshall, and Mboya favored. The latter three thought that blacks would do well once legalized racism was removed from capitalist societies. In other words, racism was the impediment to black equality both in Kenya and the United States. They failed to realize that race cannot constitute a complete theoretical basis for full liberation.⁶

The history of Kenya and the United States prove that the end of racial segregation and the enfranchisement of blacks were not sufficient to end privation.⁷ In Kenya, the failure to transform the normative and structural foundations of the colonial state retarded the post-colonial state and denied it broad legitimacy. Kenyatta would encourage the development of a crudely corrupt political class under the guise of free markets and anti-communism. Marshall did not seem to be too bothered by these developments unless Kenyatta and the new regime failed to respect the property rights of Kenyan

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4. COLIN LEYS, *UNDERDEVELOPMENT IN KENYA: THE POLITICAL ECONOMY OF NEO-COLONIALISM, 1964–1971*, at 56 (1975).
 5. It was Mboya who, along with baseball player Jackie Robinson and entertainer Harry Belafonte, raised money for the first airlift of Kenyan students to study in the United States in 1960. A historically important beneficiary of that airlift was Barack Obama, Sr., the father of President Barack Obama.
 6. Athena D. Mutua, *Shifting Bottoms and Rotating Centers: Reflections on LatCrit III and the Black/White Paradigm*, 53 U. MIAMI L. REV. 1177 (1999).
 7. MAHMOOD MAMDANI, *CITIZEN AND SUBJECT: CONTEMPORARY AFRICA AND THE LEGACY OF LATE COLONIALISM* (1996); THOMAS F. JACKSON, *FROM CIVIL RIGHTS TO HUMAN RIGHTS: MARTIN LUTHER KING, JR., AND THE STRUGGLE FOR ECONOMIC JUSTICE* (2007).

minorities—whites and Asians. There is no evidence that he ever pushed for land redistribution to benefit dispossessed Africans, or to create a more equitable society for them. This is a disturbing omission on the part of Marshall, the iconic civil rights lawyer who did so much as a US Supreme Court justice to advance the jurisprudence of racial equality in the United States. One can only conclude that his obsession with the protection of minorities did not allow him to see a material difference between the Kenyan and American contexts. He missed the critical fact that in Kenya, racial minorities—whites and Asians—were economically powerful groups that either controlled the state, or were favored by it over Africans. In contrast, the African-American minority in the United States was marginal, despised, alienated, and oppressed by a white power structure at the public and private levels. No two contexts could have been more different.

But it was the contradictions in the Kenyan post-colonial state that would upend both Odinga and Mboya. The two would become bitter rivals, and Kenyatta would remove both as competitors for power as he consolidated his own. Mboya, thought by Kenyatta and his aides to be a threat, was assassinated in 1969. Odinga fell out with Kenyatta who detained and later consigned him to the political wilderness as the young post-colonial state became decidedly authoritarian. The state drifted toward personal rule, a culture of official impunity, and a denial of basic human rights. By the time Kenyatta passed away in 1978, gross human rights violations were becoming common. Daniel arap Moi, his successor, created a corrupt and murderous kleptocracy that ruled with an iron fist.⁸ There is little doubt that the

Kenyatta regime turned despotic partly because of its failure to fulfill the expectations of the citizenry after independence.⁹ That failure was a result of Kenyatta's inability or unwillingness to transform the predatory state into a robust polity where Africans would thrive. Perhaps the situation would have been different had he worked more closely with Odinga to pursue a social and economic justice agenda for the state. Although Dudziak alludes to these developments, she does not trace them directly to the nature of the state that Marshall helped give birth to at Lancaster House.

III. THE LIMITATIONS OF THE RULE OF LAW

Dudziak has written a book that is uncommon in American literature. What *Exporting American Dreams* does is thoughtfully chronicle the convergence of a global struggle for human rights as it unfolded in two countries—Kenya and the United States. The story has romantic overtones as an African-American jurist traverses the world to assist his cousins in Africa to overcome white supremacy, the same cancer that his people faced in the United States. One cannot but admire the doggedness of Marshall as he attempts to slay the demon of racism on these vastly different continents. Dudziak correctly paints Marshall as slavishly obedient to law and order—even as he worked to bring about justice within unjust legal orders. The author depicts Marshall in a one-dimensional lens—as strictly beholden to social change within the law. This faith by Marshall in a “natural” process of evolutionary change within

8. See AFRICA WATCH, *KENYA: TAKING LIBERTIES* 7–27 (1991).

9. JENNIFER WIDNER, *THE RISE OF A PARTY-STATE IN KENYA: FROM “HARAMBEE” TO “NYAYO!”* (1992).

the law is somewhat of a paradox given the brutalities that he had witnessed both in the United States and Kenya. Was Marshall really a legal conservative at heart, or did he have an irrevocable faith in the Anglo-American legal tradition and its ability to correct deviations from justice? Or did he have an iron-clad commitment to non-violent change? At times, it seemed that civil disobedience was to him unacceptable.

Dudziak does not probe whether Marshall was simply incapable of accepting a return to the status quo ante in Kenya where whites would have been required to give up ill-gotten land without compensation. Was this a commitment to private property notions, or was it a deification of the law—albeit unjust law? Or did Marshall see in the protection of the property rights of the white and Asian minorities the foundation for a racially just society? What about the property rights of the dispossessed black majority? Did Marshall believe that political or juridical independence for black Kenyans could be completely disconnected from their economic needs? If so, then he tragically misunderstood the purpose of the struggle for liberation from British colonial rule, including the deadly Mau Mau War for independence in which the British committed war crimes and crimes against humanity.¹⁰ Freedom from economic exploitation and the right of blacks to own and control resources was as important to them as political independence. “Flag” or political independence without the ownership of the national economy would have been a pyrrhic victory.

Marshall was convinced from his centrist American worldview that neither violence nor radical social change was necessary to liberate blacks from white domination. This is a view that he apparently applied without distinction between Kenya and the United States. In this sense, Marshall was the polar opposite of the Black Power movement in the United States or the Mau Mau in Kenya. As Dudziak correctly notes, Marshall’s vision of social change—what she calls his “faith in the law as a vehicle for social change”—was more acceptable to whites than the confrontational politics of the Black Panther Party.¹¹ Dudziak defends this vision of the place of the law by Marshall and seems to endorse his view that blacks were enslaved by law, emancipated by law, segregated by law, and would win equality through law.¹² This dichotomy of how blacks should respond to white supremacy has been the subject of heated controversy.¹³ Marshall himself said that “there is very little truth in the old refrain that one cannot legislate equality. Laws not only provide concrete benefits; they can even change the hearts of men—some men anyway—for good or for evil.”¹⁴ This is how Dudziak understood Marshall’s philosophy of social change:

Marshall’s opposition to Black Power, then, was not simply based on the tendency to conflate Black Power and violent resistance. Instead, Black Power seemed to reduce history to a raw dynamic of power. The idea that only a power shift could markedly alter material conditions for African Americans was at odds with his core beliefs. *It denied the rule of law itself.*¹⁵

10. CAROLINE ELKINS, *IMPERIAL RECKONING: THE UNTOLD STORY OF BRITAIN’S GULAG IN KENYA* (2005).

11. DUDZIAK, *supra* note 1, at 141.

12. *Id.* See also THURGOOD MARSHALL: HIS SPEECHES, WRITINGS, ARGUMENTS, OPINIONS AND REMINISCENCES (Mark Tushnet ed., 2001).

13. RANDALL KENNEDY, *SELLOUT: THE POLITICS OF RACIAL BETRAYAL* (2008).

14. DUDZIAK, *supra* note 1, at 141

15. *Id.* (emphasis added).

There is no doubt that the use of the law can bring about social change. The history of jurisprudence in the United States and other countries in the world is enough proof. However, it is the nature, pace, and depth of the change that are at issue. Even more important are the historical legacies and other social distortions that determine the effectiveness of the law as an instrument of social change. Even in the United States, where the law is fetishised by many as a key engine of social change, social transformation has often come about first as a result of political or other forms of social pressure. Legal processes rarely move on their own motion without some antecedent pressure from a segment of society. In other words, the law is not per se a cause of social change but a result of politics. Furthermore, it would defy logic to separate law or the notion of the rule of law from the state monopoly on the instruments of violence and coercion. The rule of law is only possible because courts are backed up by the state which is itself the embodiment of violence. In fact, the state is not possible without its control and use of violence as tools of social order and stability. Law—in Marshall's hallowed concept of the rule of law—is the medium that civilizes and legitimizes state violence. Otherwise, state violence would appear illegitimate, arbitrary, and capricious. Even so, the rule of law does not necessarily imply a just and democratic society. Nor does it automatically beget social justice.

It is Marshall's dogmatic fidelity to the abstract notion of the rule of law that

limits his vision of what was possible for Kenya. Marshall ultimately failed to make the necessary distinction between the Kenyan and American struggles because he was deeply wedded to conceptions of the rule of law as the basis for a pacific society. In this, he made the mistake that the African National Congress (ANC) and Nelson Mandela would make four decades later when they accepted the law as an adequate medium for the transformation of the deep distortions of apartheid. The consequence was the privatization of apartheid in which white privilege was left intact resulting in black alienation and disillusionment.¹⁶ Aggressive reforms, including wealth redistribution, would have been indispensable to address the plight of black South Africans. The law is a double-edged sword and its proclivity to protect the rich and powerful—and whites in multiracial societies—has never been in doubt.¹⁷ Marshall's failure—and that of the ANC—is a blind fidelity in the law as a sufficient tool for social change. Dudziak could have done more to interrogate this tension by critically exploring the limitations of the rights discourse. As it is, she privileges Marshall's faith in the law and fails to show how the law's hidden biases undermine equality and sustain racial subordination.¹⁸

IV. LEGAL FICTIONS AND BLIND UNIVERSALISM

Dudziak could also have dealt with the project of exporting Americana in a more

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16. Makau wa Mutua, *Hope and Despair for a New South Africa: the Limits of Rights Discourse*, 10 HARV. HUM. RTS. J. 63 (1997).
 17. Alan Freeman, *Racism, Rights, and the Quest for Equality of Opportunity: A Critical Essay*, 23 HARV. C. R.-C.L. L. REV. 295 (1988).
 18. See Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139; ADRIEN K. WING, *CRITICAL RACE FEMINISM: A READER* (1998).

critical and nuanced way. Just because the exporter is an African-American does not absolve the project of its imperial proclivities. There is a vast amount of literature pertaining to the critiques of this enterprise that Dudziak does not address. Marshall did not seem to be aware of these contradictions, or even whether his understanding of the role of law in society was the proper one for Kenya. Nor did he seem to question his authority to challenge Kenyatta and other Kenyan leaders when they deviated from his script for protecting minority rights. In one instance, he literally shouts at Kenyatta and Mboya when the property rights of an Asian are threatened. It is unclear why he assumed it was in his place to countermand Kenyatta in this way. Was he being an arrogant American, or did a brotherly kinship to the new African government permit him to be so blunt in his relationship with Kenyatta and Mboya? One may think of him as being paternalistic. But the fact that he was a black man must have given him some license to speak in such confrontational terms to the leaders of an African country emerging from decades of white colonial oppression. Whatever the case, the incident is a glimpse into the role of an advocate for minority rights that Marshall had carved out for himself.

Neither Marshall nor Dudziak interrogate the normative complexity of universalism. The Western project of exporting political democracy is highly controversial. To many states and cultures in the non-Western world, it smacks of imperialism. This project of the empire traces its roots to colonialism and the original

purposes of international law.¹⁹ At the heart of modernity is the presumption that Western civilization—Judeo-Christian ethics and morality, free markets, and political democracy—is the zenith of human development which all human societies should mimic. Thus a paradigm is constructed in which the *rest* must learn under the tutelage of the West. It is the manifest destiny of the West—the white world—to elevate the rest of mankind up the ladder of civilization. This racialized conception of human history and its evolution explains colonialism and most interventions abroad by the West. The logic behind this theory is that

Christianity is the moral and naturalist foundation of civilization, and the reason without which full humanity is unattainable; thus, the coupling of Christianity to the colonial project and the fusion of the church, state, and empire are achieved. Capitalism is constructed as innate in humans, and, therefore, the basis for the regimes of the ownership, protection, and distribution of global resources. Finally, political imperialism is an indispensable paradigm in the ordering of the relationship between Europeans and non-Europeans, with the manifest duty of the European to convey the gifts of civilization to backward and uncivilized peoples.²⁰

Dudziak is very much aware of these debates, but chooses not to focus on them in the book. References to them are sparse and cursory. For example, Dudziak argues in one instance that “although Marshall would not try to impose particular American laws on Kenya, his very notion of the means of social change was forged in the American experience.”²¹ Yet Dudziak failed to

19. Antony Anghie, *Finding the Peripheries: Sovereignty and Colonialism in Nineteenth Century International Law*, 40 HARV. INT'L. L.J. 1 (1999).

20. Makau Mutua, *Critical Race Theory and International Law: The View of an Insider-Outsider*, 45 VILLANOVA L. REV. 841, 849 (2000).

21. DUDZIAK, *supra* note 1, at 64.

recognize that Marshall did indeed try to impose American notions of equal protection norms on Kenya. Otherwise one cannot understand his insistence on "facially-neutral" norms for the protection of minorities without regard to context or the need for the use of the law to transform deeply embedded social and economic inequities born of the legacy of colonialism. The entrenchment of the rights of white landowners and the settler society in Kenya prevented any meaningful social revolution to overturn decades of gross human rights violations. All too often, the law is used as both a shield and weapon in the hands of the privileged in the Anglo-American tradition, and Marshall's insistence on "rule of law" notions in a post-colonial transition betrayed his limitations as a change agent. What he failed to appreciate is that Kenya's fight was not simply an assault on legal segregation. Fundamentally, it was a struggle for total liberation.

Although the failure by Dudziak to focus on these debates is not a fatal flaw, their inclusion would have helped explain the tumultuous nature of the Kenyan post-colonial state. Kenya has failed to cohere into a viable democracy partly because the script on which it was based uncritically mimicked Western models. Today there is a growing realization that successful and legitimate statehood must be moored in values that are broadly shared by the populace. Thus importing or imposing undigested norms and structures under the guise of universalism may create a veneer but not the reality of progress.²² For example, while equality and participation in the political, social, and economic life of a nation by minority

populations are keys to full citizenship, each historical and cultural context is different, and cannot simply be treated as boiler-plate. Thus Marshall could not simply lift the American experience and duplicate it in Kenya without regard to the context. The struggle for rights to full citizenship by African-Americans is very different from the struggle by Kenyans for sovereign independence. Furthermore, the economic and political relationship between whites and blacks in the two countries could not have been more different. In one, blacks are an impoverished minority, while in the other, whites are the privileged minority.

Equal protection and anti-discrimination protections meant radically different things in Kenya and the United States. That is why it is implausible to treat legal norms relating to minorities as "neutral" rules that could be applied anywhere and everywhere without regard to context. How one envisions a rule within a context determines how it should be applied to achieve the aims of justice. Protecting white property rights in Kenya by the uncritical application of facially neutral due process notions would simply have frozen the racial hierarchies in place with whites on top and blacks at the bottom. The deification of certain legal fictions as equality before the law can be a subterfuge of social justice.²³ It also fails to answer questions about equality in fact. The purpose of equality in law should not be a blind obedience to formal legality, but an avenue towards equality in fact. Otherwise social hierarchies and oppressions can be privatized by law and legitimized to the detriment of a common citizenship. Sometimes it is necessary

22. William P. Alford, *Exporting the "Pursuit of Happiness,"* 113 HARV. L. REV. 1677 (2000) (reviewing THOMAS CAROTHERS, *AIDING DEMOCRACY ABROAD: THE LEARNING CURVE* (1999)).

23. See Mark Tushnet, *An Essay on Rights*, 62 TEX. L. REV. 1363 (1984); Karl. E. Klare, *The Public/Private Distinction in Labor Law*, 130 U. PA. L. REV. 1358 (1982).

to treat citizens unequally in the law so that equality in fact can be achieved. This is partly the logic underlying affirmative action. Redistributive justice notions would require the rebalancing of competing interests without the fetters of formal equality. It is this discussion that both Marshall and Dudziak seem to have shied away from.

V. INTERDISCIPLINARITY AND ACCESSIBILITY

Exporting American Dreams is written in a very clear and extremely appealing style. Dudziak writes as though she was personally a witness to the epochal events in the book. The deceptively simple and plain spoken writing style draws in the reader, and makes for gripping reading. Obviously, it helps that she is writing about the "golden age" of the struggle against racism in the United States and colonialism in Africa. The people who are the subjects of her work were the tallest and sturdiest oaks of that era. The only other towering African leaders in league with Kenyatta were Ghana's Kwame Nkrumah, Tanzania's Julius Nyerere, and South Africa's Nelson Mandela. These men defined the anti-colonial and anti-racist struggle in Africa. In the United States, the only other African-American leaders in Marshall's league were Martin Luther King, Jr. and Malcolm X. The lives of these historic figures make for compelling narratives which Dudziak has captured in rich and captivating storytelling. On several occasions I was moved to tears by her vivid descriptions of brutalities meted out against blacks in Kenya and the United States. While on a flight from Buffalo to Atlanta, I remember reading a section of the book on the humiliation and violence visited on black students by the police and whites in Louisiana.

From thirty-thousand feet above sea level, I looked through the window to calm myself down. I was overwhelmed by the inhumanity of segregation and the cruelty of racism. Dudziak's velvety writing style partly induced those feelings.

An important virtue of *Exporting American Dreams* is its accessibility. It is written without pretension. Although a law professor, Dudziak is an accomplished historian and political scientist whose work is truly interdisciplinary. In the book, she brings all her enormous intellectual talents to bear on a complex bundle of intersecting subjects—African-American struggles for equality in a racist society, Kenya's push for independence, the role of law in social change, and British imperialism. It is a daunting task that required painstaking original research, much of it in new areas for her. An amazing fact is how quickly she was able to develop a fairly good understanding of the Kenyan history. But it is the cross-breeding of the Marshall, Kenyatta, and Mboya narratives in the context of a global struggle for equality that is truly inventive. The book blazes a trail in an area in which little research has been done. Prior to *Exporting American Dreams*, very few people knew about Marshall's pivotal role at the dawn of Kenya's emergence as an independent state. Even in Kenya, which was the subject of Marshall's efforts, there is virtually nothing in the public consciousness about his work on the country. Yet in a sense, Kenya's pro-American orientation can be traced back to Marshall. That is why Dudziak's book is a fund of knowledge of enormous importance.

VI. CONCLUSION

Hopefully, Dudziak's book will not be the last to be written about Marshall's Kenyan

journey. Particularly interesting would be further works building on this excellent book by Dudziak and further exploring the vexed tension in Marshall's vision for the use of the law to transform Kenya and the limitations of rights discourse generally as an instrument of social transformation. Was Marshall right in insisting on a narrow reading of the rule of law even in deeply distorted societies? Should there be a boiler plate normative cure for the protection of minorities no matter the context as Marshall seemed to believe? These and other questions remain unanswered in Dudziak's book. Yet it provokes them and unwittingly demands that answers be given. What is not in doubt, however, is the fact that *Exporting American Dreams* has established an inescapable bar that others must meet.

Dudziak's intellectual courage and boldness—going where others had not gone before—is inspiring and deeply welcome by those who seek to understand the breadth of Marshall's passion for justice. His was a life lived in a rotund pursuit of justice through the rule of law. Even though there are obvious limitations to a quest for justice framed in those confines, no one can deny Marshall's profound impact on civil rights in the United States and his influence on Kenyatta, Mboya, and the emergent Kenyan state. Dudziak has weaved a classic tale that intertwines this gripping narrative in the hopeful diction of a thinker who seeks universal justice. Her book is a truly magnificent contribution to understanding Marshall, one of the towering figures of the twentieth century.

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Niaz A. Shah, *Women, the Koran and International Human Rights Law: The Experience of Pakistan* (Martinus Nijhoff Publishers 2006) 262 pages, ISBN 9004152377.

Around the globe Muslims are being drawn into disputes about how their religious doctrines relate to women's international human rights. Controversies rage over whether Islam can embrace equality in rights or can only endorse an "equality" encumbered by numerous qualifications. Publications on this topic have proliferated, ranging from ones defending traditional Islamic rules and deprecating any conflicting principles of women's international human rights to ones asserting that, when correctly understood, Islam supports the ideals of the Convention on the Elimination of All Forms of Discrimination Against Women (Women's Convention).¹ A dramatic flourishing of Islamic feminism has recently challenged formerly ascendant patriarchal ideals, which feminists argue

1. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted 18 Dec. 1979, G.A. Res. 34/180, U.N. GAOR, 34th Sess., U.N. Doc. A/34/46 (1980), 1249 U.N.T.S. 13 (entered into force 3 Sept. 1981).