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Prof. Kenyatta on Justice Marshall

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Equality's Advocate

Prof. Kenya on Justice Thurgood Marshall

"Faith, hope and love, these three; but the greatest of these is love."

1 Corinthians 13:13

For me, Thurgood Marshall represents the incarnation of this biblical assertion applied to law in pursuit of justice.

Growing up in a small, racially segregated industrial town in the southeast corner of

Pennsylvania, midway between Philadelphia and Wilmington, Del., I knew Jim Crow in both its blatant Southern form and its more subtle Northern form. Like other poor Blacks of my generation, I was born into a home without flush toilets and a community without lawyers. I certainly did not aspire to become a lawyer, as a child: I had no idea what a lawyer was.

But I had at least a vague idea that I was not free. I read it between the lines in *Jet*, *Ebony*, *Sepia*, the *Philadelphia Tribune* — the Negro magazines and newspapers that chronicled the weekly doings of my folks, near and far. I heard it in the changes of tones of my elders when they spoke to or about White folk. I felt the spirits of my family and friends straining against unfreedom, hoping for a better thing as they crowded around the crackling radio to listen to the exploits of Jackie Robinson of the Brooklyn Dodgers, the team rooted for by all colored people everywhere.

I knew that we were not free. And I aspired, I yearned to be free.

Then, when I was just ten years young, in the year of our Lord nineteen hundred fifty-four, a wondrous thing happened that brought freedom close enough to hope for

and introduced me to the significance of the law.

That was, of course, the Supreme Court's decision in *Brown vs. Board of Education* declaring racial segregation in public schools unconstitutional. The Negro people, personified in one Mr. Thurgood Marshall, had won a

major victory in our quest for freedom. No, it did not change very much very fast. I still attended all-Black, physically inferior elementary and junior high schools, never having a White classmate or teacher until entering high school. Movie houses and doctor's offices were still segregated. We were still poor. But the law of the land was, we now believed, on our side, at last.

And we began to believe more in ourselves. Thurgood Marshall, a Black lawyer, the product of a Black college (Lincoln University) and a Black law school (Howard University Law School) had won. Thus, we had won. Thurgood Marshall amplified our faith in ourselves and in our ability to advocate for ourselves. Let us be clear:

had there not been Thurgood Marshall and the *Brown* case in 1954, there would not have been Martin Luther King, Jr. and the Montgomery, Ala., bus boycott ushering in the mass non-violent movement in 1956.

Moreover, Thurgood Marshall helped give us hope. Just as crucial to the civil rights movement of the fifties and sixties as our faith in ourselves was our expectation of progressive change. It has often been noted that great social revolutions are born of great expectations. Crushed under the heels of violent, systematic, legally sanctioned



THE WALL STREET JOURNAL.

Letter to the Editor, August 9, 1991

Are Black Conservatives Hypocrites?

Black conservatives as the heirs of Booker T. Washington and Marcus Garvey? You can't be serious. I write regarding two recent articles about Clarence Thomas, Supreme Court nominee, and black American conservatives ("The Marshall Seat: Bush's Court Nominee, a Black Republican, Is Deft Political Choice," July 2; "Against the Grain: Black Conservatives Wield Growing Clout Beyond Their Number," July 3). Your writers refer to the black conservatives as being characteristically in favor of black self-reliance and against government support programs. Unfortunately, the two articles, which are otherwise excellent, slip into endorsing the way black conservatives describe themselves without adequate indication that the self-description is open to question.

As alluded to in the article of July 3, almost all black American leaders and organizations stress black self-reliance and self-respect as the necessary foundation for alleviating dreadful conditions in the black community. These leaders include people as diverse as Jesse Jackson, Doug Wilder and Benjamin Hooks.

There are, indeed, important differences between black conservatives and black leaders who describe themselves as liberal, progressive or radical. It is not, however, the view of anyone other than the black conservatives that they uniquely stand for the principle of black self-reliance. In fact, it is a matter seriously open to question whether the black conservatives have any significant commitment to, or prescription for, improving the life prospects of the majority of black Americans. For example, an article in the *Los Angeles Times* recently describes Clarence Thomas's heartless attitude toward his own sister who, unlike Mr. Thomas, has been unable to escape poverty.

Heated discussion concerning the proportion of the black community's responsibility for the situation in which it finds itself will continue until the remnants of American-style apartheid have been eradicated.



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repression since the 1870's and the collapse of Reconstruction, we the ex-slaves seemed doomed to never be really free. For most of us, our own solace became religion and the promise of freedom in the great beyond. No wonder, then, that the core of our local leadership was the clergy and the language of our plaint was largely Biblical.

But Marshall revived the language of law. He joined the moral righteousness of our cause with the state-sanctioned rectitude of the law. Thirty-two times as a NAACP lawyer, he argued before the Supreme Court, the highest tribunal of the land. Twenty-nine amazing times, he walked away with victory. He showed that there was a common resonance between the informed legal consciousness of White America and the articulate moral consciousness of Black America. Marshall taught all but the most desperate of us to dare to dream the American dream.

Thurgood Marshall taught us hope.

But most of all, Attorney Marshall, Federal Judge Marshall, Solicitor Marshall, Mr. Justice Marshall personified and manifested our love. Our love of ourselves. Our love of the country, this Pharaonic land where we learned to make the bricks of our peoplehood from the straw of our servitude. Our love of learning, embodied in our belief that equality of educational opportunity was the nodal point of all social equality. Our love of our children for whose future we would struggle in the courts, in the streets, and — once we retrieved the right to vote — in the rough and tumble of politics. And, perhaps most of all, Thurgood Marshall personified our love of simple justice.

Now Justice Marshall is retiring at 83 years old. Thirty-six years his junior, I find myself teaching at the University at Buffalo Law School, trying to adjust to the scholarly life after almost thirty years of civil rights and social justice activism of my own. I think often of Marshall when pondering what to tell my students about law and why law matters. I remember what America was like before the revolution in law led by Marshall and his cohorts. And then I know. I must say to my students that law, real law, is first and foremost a labor of love. ■

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