

Justice Thomas' Remarkable Flirtation with Multiculturalism American Thinker

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By Lester Jackson

Many conservatives are frustrated that their leaders play by gentlemanly Marquis of Queensberry rules while leftists ruthlessly attack with thuggish Alinsky rules. For example, Clarence Thomas is justifiably viewed by conservatives as a courageous defender of the Constitution and as one of the best justices, if not the best. Yet he has made televised comments lending respect and legitimacy to extremist liberal activists who dishonestly and arrogantly have shredded the Constitution to further their ideological agenda.

"[S]ome days I just feel more and more distant from people that I think see the world the same way I do ... So many people seem to be so willing to ... award praise ... for whatever reason."

--- [Rush Limbaugh](#), September 13, 2013

Vintage Thomas

In high-profile decisions last June, Justice Clarence Thomas did not disappoint his admirers. He was the only justice who would have struck down Section 5 of the Voting Rights Act, delivered a blistering, detailed solo opinion attacking affirmative action, and joined two dissents in the gay marriage case as well as court holdings in the employment discrimination allegation cases.

For example, in *Fisher v. U. of Tex.*, Thomas demonstrated that pro-affirmative action justices use the [same rationalizations](#) (pdf 31-2) as slaveholders and segregationists did. In *U.S. v. Windsor*, he joined Justice Scalia's opinion [excoriating](#) (pdf 53, 55) five justices for declaring that those who disagreed with them regarding gay marriage are "enemies of the human race" and "unhinged members of a wild-eyed lynch mob."

The Justice vs. the Television Personality

Why, then, does Thomas make televised public statements cutting the legs out from under the powerful official opinions he has written and joined? His (and Justice Scalia's) lavish praise of extremist liberal judicial activists as people ("good," "honest") has been shown in detail to be unwarranted ([here](#) or [here](#)). But just two months prior to his vintage term-ending performance, Thomas went much farther, virtually declaring all he had fought for to be no better than all the values and judicial lawlessness he had spent two decades fighting against:

[[50:25](#); [51:44](#)] It would be enormously prideful and presumptuous of me to assume that I have the right answer. I have **an** opinion. I do not have the gospel. I respect your right to have a different opinion ... I am certainly ... not going to ... disrespect [other] justice[s] ... if they disagree with me. I respect their right to have a different opinion.

This statement is virtually indistinguishable from the [secular religion](#) of devout leftist multiculturalism, whose harms have been extensively discussed elsewhere (e.g., [here](#), [here](#), [here](#)). Suffice it to say that it is preaching from the multiculturalist bible to declare that all justices' opinions are worthy of respect. This legitimizes the very justices Thomas has accused of arrogantly and dishonestly -- and illegitimately -- imposing their own values while flying under the false flag of merely "[interpreting](#)" the law.

"Difference of Opinion": Practice vs. Theory

In theory, litigation is decided by, first, determining the facts and, second, applying the law to those facts. But in practice, for activist justices, their own unpopular personal values and policy preferences [trump](#) (8) both facts and law, which they contemptuously [suppress](#) and distort.

Spanning two decades on the Court, Justice Thomas himself has reiterated this point. Just last year, he [repeated](#) (pdf 47, 55) his earlier protest that five justices, illegitimately and without constitutional authority, had acted on "nothing more than [their] belief that [their] own sense of morality ... pre-empts that of the people and their representatives[.]" In 2002, Thomas joined Justice Scalia's [objection](#) to the opinion of six justices "rest[ing] so obviously upon nothing but the[ir] personal views[.]" Finally, in his very first term, he joined Scalia's [lament](#) that "constitutional adjudication consists primarily of making *value judgments*," notwithstanding that the people's "value judgments are quite as good as those taught in any law school -- maybe better."

So "difference of opinion" in a politically contentious case concerns not the meaning of an abstruse legal provision (e.g., patent law), but fundamental values and whether the Constitution empowers any five justices to impose their personal morality upon everyone else.

If the most critical judicial decisions are simply the substitution by justices of their own unpopular idiosyncratic views of right and wrong for those adopted by the people's elected representatives, questions inescapably arise. Are all values worthy of respect? If not, when is the line crossed? Are some values so dangerous that they threaten our heritage, our freedoms, and not only our way of life, but our very lives themselves? Must such values be accepted out of "respect for different viewpoints," or should they be vigorously fought?

Consider a sample of opinions written, joined, and opposed by Thomas over 22 years:

Respect for This?

- Thomas has written that justices "[perva\[sively\] dissembl\[e\]](#)," issue "fiats" supported by mere "[window dressing](#)" (19) and pronouncements they "[\[do\] not even believe](#)," (23) and [use](#) (pdf 154) "sophistry" and "verbal wizardry." Is dissembling entitled to respect?
- Do pro-affirmative action opinions deserve respect when, as noted, they employ justifications analogous to those advanced by slaveholders and segregationists?
- Does Thomas actually respect opinions he has [denounced](#) as based on the [theory](#) that blacks are inferior to whites? Were [Dred Scott](#) and [Plessy v. Ferguson](#) worthy of respect?

- When justices "[lawlessly](#)" (pdf 26) make "[illegitimate](#)" (13) [decisions](#) (pdf 47) and [arrogantly](#) "[usurp](#)" (13) power, limited only by their sense of what they can "[get away with](#)" (pdf 56), should the public believe that this is as respectable as justices who protest it?
- In June's fiat declaring unconstitutional the Defense of Marriage Act's limitation of federal marriage benefits to one-man-one-woman partners, five justices proclaimed that the Constitution forbids laws, even if overwhelmingly enacted, that *they* believe "demean ... moral and sexual choices." If that merits respect, shouldn't it also apply to polygamy and marriage between family members? When a woman [marries herself](#), are both [self-marriage](#) "partners" entitled to benefits? How are the morally superior five going to rule when, inevitably, [NAMBLA](#) and [ZETA](#) come calling to seek constitutional "civil rights" protection for men's free "lifestyle choices" to have sex with [boys](#) and [animals](#)?
- Justice Stevens has [labeled](#) families of murder victims as mere "[third parties](#)," not themselves victims, notwithstanding the [trauma](#) caused by their loss. Other justices have treated crime victims with contempt, seeking to deny victims' families any role in court proceedings. They [shed tears](#) for brutal rapists and murderers, viewing them as the true victims (even demanding enforcement of a [never-enacted](#) law to save their lives) -- with nary a tear for those murdered, tortured, and raped, nor for their loved ones. Shockingly, justices [granted](#) the most depraved convicted barbarians a right to commit additional torture, rapes, and murders with no punishment whatsoever precisely because they are the most depraved. Do most Americans accept these values?
- Thomas has [rebuked](#) justices who "unnecessarily sentenced law-abiding citizens to lives of [gang-inflicted] terror and misery," pointing to the "[shame](#)" that "our most vulnerable citizens ...the people who will have to live with the consequences of today's opinion[,] do not live in [justices' safe] neighborhoods." Does the Constitution really value alleged gang member "rights" far more highly than the right of the law-abiding to live safely and fear-free?
- Did five justices warrant respect when they [conferred](#) upon often-[corrupt](#) government officials the power to confiscate private property from the powerless to give to the powerful? These justices, Thomas [pointed out](#) (14), provided safety from government for citizens in their homes while denying protection from destruction of the homes themselves.
- Thomas has accused five colleagues of validating "[infanticide](#)," which he [described](#) in gruesome detail. Is infanticide respectable?
- Is it merely a difference of equally respectable opinions when justices seek to deny First Amendment protection for candidates challenging entrenched incumbents seeking to [avoid criticism](#) (15) by suppressing political speech, while at the same time, as Thomas [put it](#), "extend[ing] First Amendment protection to ... making false defamatory statements, filing lawsuits, dancing nude, exhibiting drive-in movies with nudity, burning flags, and wearing military uniforms"? He added that these justices, "rather than going out of [their] way to *protect* political speech, [go] out of [their] way to *avoid* protecting it."

- In sum, does being a U.S. Supreme Court justice automatically confer respect for his or her opinions -- no matter how dishonest, lawless, and in defiance of the American people?

Conclusion

Those who know Clarence Thomas have vouched that, far from the frequent hateful leftist caricature of him as "bitter" and "angry," he is actually very decent and warm, with a great sense of humor. But does decency require public expression of "respect" for judicial soul mates of the fanatics who so ruthlessly savaged him? While Thomas cannot be expected to insult his colleagues on television, surely getting along with them does not require him to go to the opposite extreme by saying that his opinions, reflecting his and our values, are no better than theirs.

To those who highly regard Thomas, it can be distressing to hear him say that one justice's opinion is as respectable as another's. It is galling that Judge Bork was viciously attacked as "out of the mainstream" by extremists seeking justices to impose truly out-of-the-mainstream values and policies upon the American people by running roughshod over the rule of law and constitutional representative democracy. (The [insufferably pompous](#) Justice [Kennedy](#) has proven the attacks to have succeeded spectacularly.)

In often nullifying society's values expressed through law, the Supreme Court has become the last best hope of those who cannot prevail democratically. Justices who believe that the end justifies the means disregard, rewrite, and invent law. They thereby impose values and policies that are unacceptable and even abhorrent to often substantial voting majorities -- and thus cannot be adopted through public persuasion, elections, and the legislative process.

As noted, Justice Thomas himself has accused fellow justices of "dissembling," advocating for infanticide, echoing racist views, etc., never shrinking from bravely defending the Constitution in writing. How then can he publicly say that what he has so bluntly condemned is worthy of respect and, implicitly, just as valid as his views? There are huge differences between humility and self-abasement, between respect and appeasement, between cordiality and surrender.

With government becoming more tyrannical every day, with officeholders who follow Alinsky rules, why should Thomas legitimize enablers who oppose what he stands for? One can only hope that after, as noted, he joined an opinion denouncing five justices for virtually lying and "adjudging" four justices and all others who oppose the five to be "unhinged enemies of the human race," Justice Thomas will not appear to endorse such values with relativistic language.

Finally, on the most important and divisive **political** issues, a majority of justices have demonstrated their contempt -- and disrespect -- for the American people and their right to representative government. It is high time to ask whether the American people should reciprocate that disrespect and contempt.

**Original slightly modified.*

Lester Jackson, Ph.D., a former college political science teacher, views mainstream [media suppression](#) of the truth as essential to harmful judicial activism. His recent articles are collected [here](#).