

# Court Gazing:

## Features of Diversity in the U.S. Supreme Court Building

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“Diversity is its strength, just as it is the strength of America itself,” wrote Justice Sandra Day O’Connor about the United States Supreme Court.<sup>1</sup> The Court’s strength of diversity is manifested in various ways. To its thousands of visitors, the Supreme Court Building itself is perhaps the first and foremost exhibition of that strength of diversity.

In the nation’s highest court, high above the bench, are the figures of 18 historical lawgivers depicted in marble friezes. These 18 lawgivers are of different races and ethnicities, from Hammurabi to Moses to Confucius to John Marshall. They stand parallel, representing diverse legal traditions and heritages from around the world that have directly or indirectly shaped the concepts of law and justice in America.

From this building, so embodied with the ideal of diversity, the Court has issued a series of historical decisions, including *Brown vs. Board of Education*, transforming our nation in the last three quarters of a century into one that now finds strength in its racial and ethnic diversity. Buildings are human creations. Once created, they in turn become inspiration for human causes. This is especially true for such historical courthouses as the Supreme Court Building.



### THE CREATION OF THE SUPREME COURT BUILDING AND ITS EMBODIMENT OF DIVERSITY

The Supreme Court Building, a classical Corinthian structure completed in 1935, is a masterpiece of architecture, majestic in size and rich in ornamentation. It serves as both home to the Court and as a metaphor for its power and legitimacy as an equal, independent branch of the federal government. Just as the Court stands as a guardian of the Constitution and the Bill of Rights, the Supreme Court Building symbolizes the notions of justice and the rule of law that have been popularized in our sacred documents. The gigantic columns, grand staircases, spacious corridors, and splendid artistic embellishments all become very powerful visual embodiments of justice. The artistic embellishments in particular, laden with values and ideals, have proven to be a real treat for those who wish to

admire in them the incarnation of our ideas about justice.

The 18 historical lawgivers catch our sight as soon as we step into the Court Chamber, which measures a grandiose 82 by 91 feet and rises 44 feet to a coffered ceiling. The lawgivers are depicted in larger-than-life size in the ivory marble friezes on the South and North walls, each measuring 40 feet long by 7 feet 2 inches high. On the South wall are historical figures from the pre-Christian era—Menes, Hammurabi, Moses,

Solomon, Lycurgus, Solon, Draco, Confucius, and Octavian (Augustus). On the North wall are historical figures of the Christian era—Justinian, Muhammad, Charlemagne, King John, Louis IX, Hugo Grotius, William Blackstone, John Marshall, and Napoleon Bonaparte.<sup>2</sup>

The effect of the friezes’ mingling of these great lawgivers—regardless of their differences in religion, geographic region, historical era, political philosophy, and race and ethnicity—is breathtaking. It reminds us immediately that the inherent nature of American society is open and diverse. It illustrates our regard for the collective contribution of great lawgivers to the development of law in the world in general, and to the formation of the legal system in America in particular. Occupying nearly the highest point of the grand and luminous courtroom, the friezes inspire, stimulate, humble, and awe

all who enter in the chamber.

Although the figures include religious figures, Justice John Paul Stevens has noted that the inclusion of secular figures among them makes clear that it is a group of lawgivers, not religious leaders:

[A] carving of Moses holding the Ten Commandments, if that is the only adornment on a courtroom wall, conveys an equivocal message, perhaps of respect for Judaism, for religion in general, or for law. The addition of carvings depicting Confucius and Muhammad may honor religion, or particular religions, to an extent that the First Amendment does not tolerate . . . . Placement of secular figures such as Caesar Augustus, William Blackstone, Napoleon Bonaparte, and John Marshall alongside these three

### Footnotes

1. SANDRA DAY O’CONNOR, *THE MAJESTY OF THE LAW: REFLECTIONS OF A SUPREME COURT JUSTICE* 7 (2003).
2. Office of the Curator, Supreme Court of the United States,

Information Sheet, Courtroom Friezes: North and South Walls (2000) (available at <http://www.supremecourtus.gov/about/north&southwalls.pdf>).

religious leaders, however, signals respect not for great proselytizers but for great lawgivers.<sup>3</sup>

The diversity of legal heritages and traditions is also visible elsewhere in the building. The sculpted marble pediment of the east front entrance depicts Moses, Confucius, and Solon from three great civilizations in the East. The sculpted bronze panel doors at the west front entrance depict historic scenes in the development of law from the West: the trial scene from the shield of Achilles, as described in the Iliad; a Roman praetor publishing an edict; Julian and a pupil; Justinian publishing the Corpus Juris; King John sealing the Magna Carta; the Chancellor publishing the first Statute of Westminster; Lord Coke barring King James from sitting as a judge; and Chief Justice Marshall and Justice Story.<sup>4</sup>

The artistic depiction of diverse legal traditions and heritages embodied in the court building was mainly the product of six years' collective endeavor by a multidisciplinary team of architects, artists, librarians, and politicians, as well as jurists. The principal designers of the Supreme Court Building were tenth Chief Justice William Howard Taft and architect Cass Gilbert. Along with other members of the United States Supreme Court Building Commission, they believed in artistic freedom and allowed individual commissioned artists and sculptors to choose the subjects and figures that would best realize their vision of "a building of dignity and importance suitable for its use as the permanent home of the Supreme Court of the United States." Gilbert was best known for having designed the Woolworth Building in New York, the world's tallest building at the time. He was also the designer of the state capitols of Minnesota, West Virginia, and Arkansas.

Gilbert's choices of sculptors for the Court Chamber, the bronze panel doors at the West Entrance, and the pediment of the East Entrance of the Supreme Court Building were respectively Adolph A. Weinman, John Donnelly, Jr., and Herman A. MacNeil. Despite their different training and backgrounds, they shared the belief that there should be a correlation between the sculptural subject and the function of the building. They also believed that law as an element of civilization was normally and naturally derived or inherited in this country from former civilizations. Each relied on his own contacts and sources, however, for the selection of sculpted subjects.

The figures and symbols for the courtroom friezes were Weinman's own selection based upon independent research, and his carvings bore his training in the classical and Beaux-Arts tradition. After receiving the commission to create the friezes in 1932, Weinman, who lived in New York, spent con-

siderable time in the New York Public Library to gather materials on the evolution of law in written history from different civilizations. At that time, the library possessed not only extensive collections on western civilizations but also one of the best collections on eastern civilizations, spanning from the Orient to the Near East.

Weinman did not carry out this research alone. A researcher at the library named Harold A. Mattice provided him able assistance by compiling a list of short written descriptions of the major types of law and the key figures who developed them.<sup>5</sup> Mattice was well regarded at the library for his bibliographical knowledge about comparative literature, ranging from Latin America to Japan and China. Based on Mattice's initial catalog, Weinman prepared a long list of possible lawgivers from many cultures for consideration, but his criteria for choosing the 18 who appear are not known. In 1933, Weinman submitted his final designs of the friezes to the United States Supreme Court Building Commission,<sup>6</sup> which approved them with minor alterations. He then commenced carvings in 1934 and completed the friezes by early 1935.

The 70-year-old artworks by Weinman, Donnelly, and MacNeil in the court building have endured over time and are increasingly recognized and appreciated by the tens of thousands of visitors from the country and around the world. The only public complaint came in 1997, when some Muslim groups contended to the Court that Muhammad's image appearing in the courtroom was a form of sacrilege, since graven images are forbidden in Islam.<sup>7</sup> That controversy was brief, however, as some of the Muslim community leaders spoke out in favor of the artistic rendering. Dr. Taha Jaber al-Alwani, chairman of the Fiqh Council of North America, published a formal legal opinion in the *Journal of Law and Religion* defending Muhammad's inclusion in the frieze:

[F]or every Muslim, the Messenger of God (Muhammad) is the greatest and most revered personality known between the earth and heaven, not simply one lawgiver among many. Still, it was an important gesture by those who did not believe in him as a Prophet and a messenger, who did not see him as anything other than a historic personality, to include him. In a culture whose literary heritage is replete with disdainful images of the Prophet Muhammad, it is comforting to note that those in the highest Court in the United States were able to surmount these prejudices, and display his image among those of the greatest lawgivers in human history.<sup>8</sup>

3. *County of Allegheny v. American Civil Liberties Union, Greater Pittsburgh Chapter*, 492 U.S. 573, 652-53 (1989) (Stevens, J.) (concurring and dissenting opinion).

4. SUPREME COURT HISTORICAL SOCIETY, *THE SUPREME COURT OF THE UNITED STATES* (2003).

5. Based upon information obtained from the Public Information Officer, United States Supreme Court, and research conducted by the author in the New York Public Library archives, 2003.

6. The members of the United States Supreme Court Commission at that time were eleventh Chief Justice Charles Evans Hughes,

Associate Justice Willis Van Devanter, Senator Henry W. Keyes, Senator James A. Reed, Representative Richard N. Elliot, Representative Fritz G. Lanham, and Architect of the Capitol David Lynn.

7. Joan Biskupic, *Great Figures Gaze upon the Court*, WASH. POST, March 11, 1998 (available at [http://www.dailyrepublican.com/sup\\_ct\\_frieze.html](http://www.dailyrepublican.com/sup_ct_frieze.html)).

8. Taha Jaber al-Alwani, *Fatwa Concerning the United States Supreme Court Courtroom Frieze*, 15 J. LAW & RELIG. 1 (2000). 1



Franz Jantzen, Collection of the Supreme Court of the United States

**MENES (C. 3200 B.C.)**

Founder of the first dynasty of ancient Egypt, Menes personified the idea of a centralized government and is one of the earliest recorded lawgivers. Menes in the frieze is holding the ankh, an Egyptian symbol for life.

**HAMMURABI (C.1700S B.C.)**

King of Babylon and founder of the Babylonian Empire, Hammurabi is known for the Code of Hammurabi, the first surviving set of legal code covering both civil and criminal disputes.

**MOSES (C. 1300S B.C.)**

The Hebrew prophet is credited with deliverance of Israelites from slavery and receipt of the Ten Commandments. Moses in the frieze is holding two overlapping tablets, written in Hebrew, representing the Ten Commandments. Mosaic Law is based on the Torah, the first five books of the Old Testament.

**SOLOMON (C. 900S B.C.)**

King of Israel, Solomon's name is synonymous with "judicial wisdom."

**LYCURGUS (C. 800 B.C.)**

A leading legislator and statesman of Sparta in ancient Greece, Lycurgus is credited with being the guiding force of the reform of the Spartan constitution.

**SOLOMON (C. 600S B.C.)**

Solon, whose name has become to mean "a wise and skillful lawgiver," was instrumental in remodeling the Athenian constitution and in codifying and reforming Athenian law, often revising the laws of Draco. He is credited with laying the foundation for the world's first democracy, although only a limited form of democracy for wealthier citizens.

**DRACO (C. 600S B.C.)**

One of Solon's predecessors in Athens, he was the first to commit an Athenian code of laws to paper. His code included harsh penalties and death sentences for some minor crimes. Hence, the meaning of "draconian."

**CONFUCIUS (551-479 B.C.)**

A Chinese philosopher, his teachings laid a comprehensive system of ideas for government and society based on learning, self-discipline, and virtues. At the center of his teachings was belief in balance and harmony. He said people in government should lead by example and emphasized a morality embodied in the idea that a person should not do to others what he would not want done to him. Among the aphorisms attributed to Confucius: "I could adjudicate law suits as well as anyone. But I would prefer to make law suits unnecessary."

**OCTAVIAN (63 B.C – 14 A.D.)**

The first emperor of Rome, also called Caesar Augustus, he restored order and modernized many aspects of Roman life. He allowed judges to exercise authoritative roles and supported their following decisions of previous cases to aid in determining the outcome of new disputes.

Descriptions of the contributions of each lawgiver are mainly adapted from the public information sheet published by the Office of the Curator, Supreme Court of the United States. Figures are described from left to right.

As a result of that brief dissension, the Supreme Court Office of the Curator revised its public information sheet about the courtroom friezes and added the following to the introduction about the depiction of Muhammad: "The figure above is a well-intended attempt by the sculptor, Adolph Weinman, to honor Muhammad and it bears no resemblance to Muhammad. Muslims generally have a strong aversion to sculptured or pictured representations of their Prophet."

It is fitting to highlight the only American, John Marshall, fourth Chief Justice of the Supreme Court, within the 18 great lawgivers. The presence of his image connects the diverse legal heritages and traditions of the world and the unique contribution of American legal and judicial systems to the historical development of law and justice. Chief Justice Marshall's 1803 declaration in *Marbury vs. Madison*—"It is emphatically the province of the judicial department to say what the law is"—caused the United States Supreme Court to become the world's most powerful court. Few other courts in the world have the same power of judicial review and none have exercised it for as long or with as much influence.

The Supreme Court has always been at the focal point of the most bitter constitutional, political, commercial, and social polemics in America. Even the Court views itself as the quiet spot in the eye of a hurricane, going about quietly applying

permanent canons of interpretation to the settlement of individual disputes, just as Marshall planned. He would, however, perhaps be surprised that the body of justices of the Supreme Court has expanded over time to include women as well as African-Americans, whose ancestors were slaves when he was Chief Justice. Although he was one of the greatest lawgivers of history, he was molded to his time, as were the other legendary figures depicted in the friezes. It may have been impossible for him to foresee, but surely he would be pleased at the racial, ethnic, gender, and other aspects of diversity that America displays today.

**TOWARD THE CENTENNIAL OF THE SUPREME COURT BUILDING**

As I recently admired this building from a distance, I remembered that the Supreme Court Building had in major measure been a winning battleground for bringing about the national strength of diversity today. From this building, the Court delivered since 1935 a series of landmark decisions of tremendous impact. The most legendary of all is *Brown vs. Board of Education* in 1954. The Court, with "Equal Justice Under Law" engraved on its edifice, has delivered the ever-so-basic message that human beings of all races are created equal. It provoked America, a country with a legacy of slavery and



Franz Jantzen, Collection of the Supreme Court of the United States

**NAPOLEON BONAPARTE (1769 – 1821)**

Emperor of France, amid his many wars, ordered and directed the recodification of French law into what became known as the Code Napoleon or Civil Code. Published in 1804, this code formed the basis for modern civil law and had major influence on laws in Europe, Latin America, Francophone Africa, and even in the United States in the state of Louisiana. Napoleon is reported to have said: “My glory is not to have won forty battles; for Waterloo’s defeat will destroy the memory of as many victories. But what nothing will destroy, what will live forever, is my Civil Code.”

**JOHN MARSHALL (1755 – 1835)**

Fourth Chief Justice of the United States, his opinion in *Marbury v. Madison* (1803) established the power of judicial review for the Court. Under his leadership, the nascent Supreme Court was able to advance to the position of a fully equal branch of the federal government as envisioned in the Constitution.

**WILLIAM BLACKSTONE (1723 – 1780)**

English law professor and jurist, he wrote the four-volume Commentaries on the Law of England, an extensive description of the state of the English law. His works had a major influence on England, the American colonies, and other regions with common-law tradition.

**HUGO GROTIUS (1583-1645)**

Dutch lawyer and statesman, he wrote *De Jure Belli ac Pacis* (Concerning the Law of War and Peace), which provided the basis of modern international law that nations are bound by common interests and mutual, enforceable agreements.

**LOUIS IX (1213-1270)**

King of France, he led the seventh and eighth Crusades to the Holy Land. He instituted the first court of appeals known as the “Curia Regis,” recognizing it as a citizen’s right to appeal a verdict in all cases. He was canonized as Saint Louis.

**KING JOHN (1166 – 1216)**

Born John Lackland, King John signed the Magna Carta, which ensured that neither he nor any future sovereign in England would be above the law. This document, only realized after a revolt, would lay the foundation of constitutional equality and liberty in England.

**CHARLEMAGNE (C. 742 – 814)**

The Roman Emperor and King of the Franks, he united and Christianized much of Western Europe in the Middle Ages, restoring order and education to what became the Holy Roman Empire. During his realm, he was also a reformer of judicial and military systems.

**MUHAMMAD (C. 570 – 632)**

The Prophet of Islam is depicted holding Qur’an (Koran), the sacred scriptures from God, or Allah in Arabic. The Qur’an provides the primary source of Islamic Law, covering all private and public behavior.

**JUSTINIAN (C. 483-565)**

The Byzantine emperor ordered the codification of Roman law and published *Corpus Juris Civilis* (“Body of Civil Law”), a coherent code that became the basis for modern civil law and inspired the term “justice.”

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Jim Crow laws, to recognize human equality and the fundamental worth of every person without regard to race. It spurred a civil rights revolution that has widened from fighting discrimination against African-Americans to that against other ethnic minority groups, women, aliens, the elderly, the handicapped, and other classifications. Without the historical decision of *Brown vs. Board of Education*, it would be difficult for us to imagine today’s America. It would be even more difficult to visualize the modest diversity manifested in recent decades in the body of justices at the Court itself, an institution steeped in tradition and history.

As I ponder the underlying political, economic, social, and international factors that may have induced these landmark decisions, and as I pay tribute to those justices whose judgments and visions have shaped the nation’s strength of diversity, including Thurgood Marshall, who argued the case of *Brown vs. of Board of Education* and later became the first African-American to have served on the Court, I also feel more exulted pride in the Supreme Court Building. It has proved to be a standing symbol of our national strength of justice.

In little more than 25 years, the centennial celebration of

the Supreme Court Building will commence. I am confident that by that historical occasion, the nation will become more diverse and equitable, and will be even stronger as a result. I am also confident that by then the body of justices of the Supreme Court will include members from other minority groups such as the Hispanics, Asian and Pacific Islanders, Native Americans, and others. The ideal of diversity will at last not only be reflected obviously on the walls and doors of the Supreme Court Building, but also fully featured on the bench. At that moment, this monumental building will also become an indisputable symbol of national strength of racial and ethnic diversity.



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