Written by **Selwyn Duke** on September 21, 2020

RBG Was an "Intellectually Dishonest" Enemy of the Constitution — and More

Nothing can enhance the right person's reputation like passing on. Ruth Bader Ginsburg is no exception.

The 87-year-old Supreme Court Justice's death last Friday has been followed by effusive praise, even from conservatives, and New York politicians intend to erect a statue in her honor. She's most commonly lauded as a "giant," often "of the Supreme Court." The reality, however, is far different: Ginsburg was "intellectually dishonest," as one commentator put it yesterday; expressed eugenicist sentiments; supported racial discrimination; and, in general, was a mortal enemy of our Constitution.

Biographical news coverage Friday routinely mentioned how, after graduating law school in 1959, Ginsburg found that New York law firms were reluctant to hire women. Not mentioned was that she wouldn't have made it on the SCOTUS if she hadn't been a woman. President Bill Clinton, who nominated her in 1993, was looking to increase the court's "diversity" (as defined by the Left), and Ginsburg fit the bill as a Jewish female.

Advancement by way of affirmative action is never a good start, and Ginsburg certainly lived down to this beginning. She wasn't just a "living document" justice as one might expect, but actually stated that American judges should let *international law help shape their thinking*.

That's right: American citizens should be subject to court rulings influenced by law they had no part in creating.

As Ginsburg put it to the American Constitution Society in 2003, judges "are becoming more open to comparative and international law perspectives."

"'While you are the American Constitution Society, your perspective on constitutional law should encompass the world,' she told the group of judges, lawyers and students," reported WND.com. "We are the losers if we do not both share our experiences with and learn from others."

As judges so often do, Ginsburg sought to justify her constitutional trespass with "precedent," buttressing her theory by citing three cases: *The Nereide*, 13 U.S. 388 (1815); *The Paquete Habana*, 175 U.S. 677 (1900); and *Martin v. Hunter's Lessee* 14 U.S. 304 (1816), reports commentator Andrea Widburg.

But as Widburg — who in the past sometimes had to read Ginsburg's opinions as part of her legal research — explains, the justice was being "intellectually dishonest." Widburg points out that, in a nutshell, the "reason those cases spoke about international law was because they involved international problems."

Consider the *Nereide* case, for example. Widburg writes that it

> arose when a Spanish citizen named Pinto sought to recover for goods seized from a British vessel during a battle in the War of 1812. Pinto claimed that, because he was not actively engaged in battle, the "law of nations" entitled him to recover his goods or their value. [Chief Justice John] Marshall carefully analyzed the Constitution, laws, and treaties of the United States to see if there was anything that specifically addressed the facts of the case involving third-party goods seized from an enemy vessel during a war.
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> It was in that context that Marshall said that, absent American authority for this international problem, "Till such an act be passed, the Court is bound by the law of nations which is a part of the law of the land." Contrary to Ginsburg's typically dishonest implication, Marshall was not saying that, for matters arising with America, the Supreme Court was free to look around for international authority it liked better.

Ginsburg's position does violence to self-governance. Applying foreign law in a case involving a foreigner not under American jurisdiction, and when no corresponding American law exists, is one thing. That foreigner has no political representation in the United States, anyway.

But to make Americans subject to laws they had no part in creating and can do nothing to change — while subordinating laws they did have a hand in creating to those foreign laws — would mean we were no longer a government of, by, and for the people. It's a slap in the face.

It's no surprise, however, that Ginsburg thought little of constitutional constraints. She never hid her dislike for our founding document, after all. Just consider her remarks to the Muslim Brotherhood in Egypt when it was considering creating its own constitution in 2012.

"'I would not look to the U.S. Constitution, if I were drafting a constitution in the year 2012,' Ginsburg said in an interview on Al Hayat television," Fox News reported at the time. "I might look at the constitution of South Africa. That was a deliberate attempt to have a fundamental instrument of government that embraced basic human rights, have an independent judiciary. It really is, I think, a great piece of work that was done."

Speaking of pieces of work, Ginsburg also supported racial discrimination, what some people call "racial quotas" and yet others euphemize as "affirmative action." This was largely hidden during her 1993 confirmation hearings, however.

Most shockingly, though, was when the justice expressed what some characterize as "eugenicist" sentiments. As *The New York Times Magazine* reported in 2009, "'Yes, the ruling about that surprised me,' stated Ginsberg," referring to *Harris v. McRae* in 1980, in which the court upheld the Hyde Amendment, which prohibits using Medicaid for abortion.

"Frankly I had thought that at the time *Roe* was decided, there was concern about population growth and particularly growth in populations that we *don't want to have too many of*," Ginsburg continued. (Emphasis added.) "So that Roe was going to be then set up for Medicaid funding for abortion."

"It's so bad that I thought it had to be fake when I first saw it," remarks pundit Monica Showalter. "I had to look it up to confirm its authenticity. Who talks like that in 2009? Heck, who talks like that in 1973?"

Hapless souls today have been "canceled" for far less. But Ginsburg? She was a "giant" — despite devoting her time on the bench to canceling the rule of law, as she trampled the supreme law of the

land, the Constitution.

Then again, Ginsburg certainly might have appeared a giant to the real source of her success: the "woke" Lilliputians who elevated her to prominence.

Photo of Ruth Bader Ginsburg: U.S. Supreme Court

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