

April 14, 2022

Answered Questions

Wisdom teaches that discretion is the better part of valor. Her Honor soon-to-be Justice Ketanji Brown Jackson, the first African-American woman to become a justice on the Supreme Court of the United States, displayed discretion during her confirmation hearings before the Senate Judiciary Committee. As is the current practice of most nominees to the Supreme Court, she declined to answer several questions for one reason or another.

Since I am not a nominee to the Court and since her nomination has been confirmed, I have decided to do my Sistah a solid favor and answer some of the questions she declined. This unsolicited favor are my answers and are very likely different from the answers she would have given.

Senator Lindsey Graham asked: on a scale from one to ten how religious are you? I would say, seven, leaving room for spiritual growth. Besides, the Bible says: "Do not be overly righteous, nor be overly wise: Why should you destroy yourself? Do not be overly wicked, nor be foolish: Why should you die before your time?" (Ecclesiastes 7:16-17) What denomination are you? Baptist born, Baptist bred, and when I die, I'll be a Baptist dead. This means that I read and interpret the Bible myself. We believe in the priesthood of all believers. We also believe that the Bible is true. I do not believe that every word of the Bible is factual, but there is truth. When I was a girl, I attended Vacation Bible School every summer where we recited the pledge of allegiance to the Bible "God's holy Word. It is a lamp unto my feet and a light unto my path. I will hide its words in my heart that I may not sin against God."

I believe in God the Creator, God incarnate in humanity, and God the Comforter, also known as God the Father, God the Son, and God the Holy Spirit. Senator John Kennedy from Louisiana asked: when does human life begin? I say: life begins at birth. This is a conclusion I have reached because of my sincerely held religious belief. The Bible says: "And the Lord God formed man of the dust of the ground and breathed into his nostrils the breath of life; and man became a living being." (Genesis 2:7) When we breathe the breath of life through our own nostrils when we are born, our life begins. This is why Jesus never spoke a word about either birth control or abortion. This is different for the sincerely held beliefs of other citizens of the United States. Whose beliefs will the Court honor? The Court is obligated to honor the United States Constitution and its imperative to secure of the blessings of liberty to We the People of the United States.. Liberty means choice. Where there is no choice, there can be no liberty.

Senator Kennedy also asked whether or not the Court ought to be expanded. I say: yes. I am persuaded by the arguments that say something ought to be done to mitigate the damage done to the reputation of the Court because of machinations by Mitch McConnell with the help of Senator Kennedy and his other Republican colleagues when they refused to give President Obama's nominee, Merrick Garland, either a hearing or a vote. They stole a seat from the millions of people who voted for President Obama. Republicans howl now about the sanctity of

the number nine on the Court, but they had no problem reducing the number by one for nearly a year. McConnell has effectively created a new unconstitutional standard that a president only gets to nominate judges when their party controls the Senate. This is just wrong.

However, I am further persuaded by arguments in favor of expanding the court presented in the final report of the “Presidential Commission on the Supreme Court” that avers that an expanded Court would allow for more diversity and the Court could hear more cases. Opponents of Court expansion say that an autocrat with the cooperation of their congressional sycophants could pack the Court with enough judges that they control to secure their power for years. Think Trump and the current Republican Party. To that I say: If We the People of the United States vote for this, we will have the government we deserve. (The commission did not make a recommendation one way or the other.)

Senator Kennedy wanted to know if Court expansion would tarnish the legitimacy of the Court. I say: the Court has been illegitimate since the Senate refused to even vote on Merrick Garland. I would not complain had the Republicans had the courage to have hearings and a vote. They had the numbers to defeat him. But, they did not. An expanded Court would restore legitimacy to the Court.

Both Senators Tom Cotton and Marsha Blackburn asked simple-minded questions looking for easy answers to difficult problems. Cotton asked: “Does the United States need more police or fewer police?” This is the wrong question. The United States needs better policing. Police ought to have at least an associate’s degree in law enforcement. They ought to be trained in conflict resolution and violence de-escalation techniques. They need to study implicit bias, and they need better psychological screening to keep psychopaths and people who want power over people off the police force. They need to know that when a local government gives them a badge and a gun, they represent the people. They work for the people, all the people, including the person suspected of a crime and the mentally ill.

Senator Blackburn asked Judge Jackson perhaps the most complicated question: “Can you provide a definition for the word ‘woman’?” Again, I know from reading my Bible that God created human beings in God’s own image. “So God created man in his own image; in the image of God He created him; male and female He created them.” (Genesis 1:27) We each are both male and female. We each have male and female hormones. From ancient Greece to the late 18th century, people thought there was only one sex with some people having their sex organs on the outside, others on the inside. (See: “Feminist Perspectives on Sex and Gender” at <http://www.plato.stanford.edu/entries/feminism-gender/>) Is the biological difference between male and female determined by the XX and XY chromosomes? How do we think about a person who has a Y chromosome but female genitalia? How do we think about other intersexed people?

However, the most basic definition that Blackburn was probably hoping to hear was that a woman is an adult human female. This too is complicated. When does a girl become a woman? Is she a woman when she gets her menses and is then able to carry a fetus to birth? However,

for many girls this can be as early as 10 or 12 years. Is she now a woman? Is a girl a woman when a particular society says she has reached the age for marriage or for consent for sexual intercourse? This varies from society to society, from culture to culture, from historical epoch to historical epoch.

Then, there is the difference between how we speak about sex or biology and how we speak about gender. The terms female and male denote biology. The terms man and woman denote gender. Gender is a social construction. What kind of behavior does a society expect from its men and its women. Some thinkers say this binary is in itself hierarchical. One or the other gender will be dominant. In this society, it is still men over women. The simplicity that Blackburn wants does not consider people whose gender identification does not match their biology. Simple-minded questions do not help us find justice for transgendered people. Justice is complicated.

When the goal of a question is not to discern any real information, we get the nonsense questions that Judge Jackson wisely refused to answer. Those questions only helped us to see her intelligence, judicial temperament and wisdom. Her questioners, not. Soon-to-be Justice Jackson did receive three votes from Republicans—Sen. Collins (R-ME); Sen. Murkowski (R-Ak); and Sen. Romney (R-UT). Two Republicans could not bother to either be on time or to observe the dress code of the Senate and voted from the cloakroom. How disrespectful. After the vote, most Republicans left the chamber. They did not have the good manners to acknowledge a historical moment. They disgraced themselves, not soon-to-be Justice Jackson. They showed us who they are, and we believe what we see.