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The Marshall-Brennan Constitutional Literacy Project: A Case Study in Law and Social Justice

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Childhood, Youth, and Social Work in Transformation

Implications for Policy and Practice

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The Marshall-Brennan
Constitutional Literacy Project

SIXTEEN

A Case Study in Law and Social Justice

Maryam Ahranjani

Over 30 years ago, my parents fled a corrupt regime in their home country of Iran in search of a society based on fairness and a sense of justice. They wanted to live in a place free from nepotism and greed by the ruling oligarchy, where there was a direct, or at least somewhat direct, correlation between hard work and achievement. Whether the United States is such a society is debatable. However, I argue that at the very least, the U.S. Constitution and legal system provide a framework for citizens to turn to in seeking fairness and justice. This framework can evolve into a firm structure only if our citizenry, and specifically youth, activates the principles and ideals of the Constitution in our daily lives.

At least one study has found that when students are *taught* their constitutional rights and when they practice the freedoms protected by the Constitution, they are far more likely to champion the Constitution.¹ Other studies show that greater knowledge of the Constitution leads to greater civic participation—including voting, running for office, and participating in community development.

Some lawmakers have realized the importance of educating children about the U.S. Constitution. In December 2004 U.S. Senator Robert Byrd proposed legislation requiring all educational institutions that receive public funds to rec-

ognize the U.S. Constitution on September 17 every year. This legislation was passed by the House of Representatives and the Senate.² Educators and administrators around the country reacted with a mixture of applause and skepticism about how best to comply with the general language of the legislation. Those of us who view every day as Constitution Day were elated.

Named for the late Supreme Court justices Thurgood Marshall and William Brennan, Jr., the Marshall-Brennan Constitutional Literacy Project has worked for eight years to mobilize talented law students to serve as mentors to junior high and high school students, learn about the importance of democracy and citizenship, and share their knowledge of the law with high school students. Besides the substantive curricular goals of the project, one of its social goals is to promote the pipeline of students of color to college, law school, and the practice of law.¹

To a certain extent, the project is subversive in its approach. Unlike traditional curricula covering the Constitution, which tend to be dry and straightforward, the founders of the Marshall-Brennan Project set out to inspire young people to care about the Constitution by showing them how it affects them every day in schools. The curriculum takes Supreme Court cases about public school students and asks students to read and analyze critical issues of constitutional law through their own lens.

The project has enjoyed tremendous success and has been recognized as a model for civic education. After seven years in existence, there are now chapters in six states across the country. Supporters include local politicians, school board members, teachers, administrators, and constitutional rock stars such as Cissy Marshall, widow of Thurgood Marshall, the great civil rights leader and Supreme Court justice, and Mary Beth Tinker, a plaintiff in the landmark 1969 case about the First Amendment right of students to wear black armbands to school in silent mourning of the loss of life in the Vietnam War.

This chapter explains how the Marshall-Brennan Project started, how it works, and how it has expanded. In conclusion, some ideas will be presented in terms of lessons that can be applied to other civic learning projects aimed at engaging youth in the process of citizenship.

HOW THE PROJECT STARTED

The seeds were planted when Professor Jamin Raskin was approached by a group of high school students in Montgomery County, Maryland, who felt their freedom of speech was being violated.⁴ The students were part of a communications academy at their school and helped run a talk show on a local cable televi-

sion station affiliated with the school. They had put together a program called “Shades of Gray,” during which they interviewed experts on difficult topics of the day. One particular show included a debate on gay marriage, and the students had lined up two speakers in favor of gay marriage and two against. The program was taped and approved by the teacher who oversaw it.

However, the show was pulled before it aired. School officials deemed the show “inappropriate” for the station. When the students contacted him, Professor Raskin wanted to go straight to court, but the wise students asked for help in first exhausting all remedies at the school district level before pursuing litigation. In the end, the students appealed to the school board and won a reversal of the superintendent’s censorship of the program. The program aired six times instead of the one or two times it would have aired had the superintendent allowed it in the first place.

This experience led Professor Raskin to the realization that high school students, especially urban students, are not taught about the Constitution and how it affects their daily lives. When he compared the resources he had (access to overly enthusiastic law students) to this need for constitutional literacy, the idea for the project was born.

The project started in the fall of 1999 with 20 idealistic law students who volunteered to teach in 8 public schools in the District of Columbia and Montgomery County. There was no formal academic component and no formal curriculum in that year; students met with Professor Raskin on an informal basis every week to share ideas and process their experiences. Today, the project recruits 60 law students from American University’s Washington College of Law and Howard University’s School of Law to teach in fifteen public and public charter schools in the District of Columbia, and the academic component includes a mandatory orientation to theory and pedagogy, as well as a yearlong mandatory weekly seminar.

HOW THE PROJECT WORKS

The model is a simple one: harnessing the surplus energy of relatively privileged law students into teaching disenfranchised public high school students about the Constitution through cases that directly affect them, and motivating young people to become civic actors. As one recent moot court competitor, a tenth grader named Ade Ademisoye from Washington, D.C., said, “[T]his program . . . inspired me to improve my civic involvement and helped me understand the government. Now I can’t wait to vote.”

Each January, we invite some 800 first- and second-year law students to information sessions about teaching in the public schools. The application process to become a Marshall-Brennan Fellow is rigorous. It includes attendance at one of the information sessions; guest teaching an existing course; submission of a lengthy application, which includes a letter indicating interest in serving as a Marshall-Brennan Fellow, a resumé, a self-evaluation of the guest teaching visit, an evaluation from the Fellows whose class was visited; and an interview with the project's associate director. The Fellows are ultimately selected by a committee of faculty who know all of the applicants and are able to contribute their personal insights in addition to the other elements of the application process.

Considering the other responsibilities most law students have, the time commitment is a significant one. Many senior lawyers and law professors are shocked that so many students choose to make such a significant commitment of time and energy. However, many law students have found that the commitment is more than worthwhile. Julie Yeagle, a law student teaching at a public charter high school in the District of Columbia wrote in one of her final papers for the academic seminar accompanying the Fellows' fieldwork, "I've never regretted my decision to teach in the Marshall-Brennan program. Just the opposite: I come home each day raving about how much I enjoy it."

Other students find that teaching helps them contextualize what they are learning in their law school classrooms. Zahida Virani, who teaches at one of the lower-performing D.C. public schools, explains, "To anyone who asks about my law school experience, I explain that the best law school feeling, by far, is walking into a classroom filled with teenagers and being able to teach them about their rights. I always look forward to teaching, even when I am tired and stressed about my classes."

Professor Raskin created *We the Students: Supreme Court Cases About Students* as the first text for the project. The Fellows now also teach from *Youth Justice in America*, an additional text that I coauthored with Jamie Raskin and Andrew Ferguson, a public defender in the District of Columbia, which we developed specifically for young people involved in or familiar with law enforcement. The District of Columbia Public Schools (DCPS) recognizes both courses, Constitutional Law and Youth Justice, as elective courses. Credits earned from these courses are applied to the Carnegie units required for graduation.

Both curricula were specifically designed to speak to students in their own language. *We the Students* is a compilation of all the Supreme Court cases about the rights of students in public schools. The casebook covers freedom of speech, freedom of student press, students' freedom to practice religion, freedom from government establishing religion, freedom from unreasonable searches and sei-

zures in schools, racial segregation and desegregation, and the rights of students with disabilities.

The first edition of *We the Students* was printed in 2000. We quickly realized that the students we teach are most interested in issues relating to crime and punishment since these issues permeate their daily lives. So we began to collect cases, stories, and pictures, and in 2005 *Youth Justice* was printed. An immediate success, *Youth Justice* includes cases and hypotheticals around the history of the juvenile justice system, different theories of crime and punishment, the proper role of police in a society that values personal liberty as well as safety, juveniles' right to counsel, the abolishment of the death penalty for juvenile offenders, felon disenfranchisement, and other topics of interest. *Youth Justice* is a relevant tool to reach youth in detention. During the 2006–07 academic year, I led a spin-off group of Fellows and others to teach at the Youth Services Center, the District of Columbia's detention facility for youth awaiting adjudication of criminal charges against them. The youth have made comments like, "Can I take this book to court with me so the judge knows I have rights?" and "I want to learn. Please teach me."

Julie Yeagle explains the impact of the Youth Justice curriculum on her students at a residential charter school in the District of Columbia: "I'm so pleased that my students have the opportunity to learn their rights under the Constitution and to learn how to become effective democratic citizens. I think that both lessons are indispensable to a student's social and intellectual growth." Matthew Wright, another Fellow who taught Youth Justice at a public high school in D.C. feels that his students actually changed their personalities and became more assertive and confident after learning about their rights. According to Matt, the curriculum "in a very real way empowered [my students] and instilled a sense of pride and awareness of their rights in this society."

The project heavily focuses on practical, experiential opportunities. These include visiting the U.S. Supreme Court to take tours and hear oral arguments; participating in debates; interacting with guest speakers such as attorneys, police officers, and law professors; participating in financial literacy workshops; meeting judges and watching trials in state and federal courts; and competing in various moot court competitions (in-class, citywide, and national).

Moot court, or appellate argument, is a critical component of the experience for both the high school and law students. The project produces new local and national problems each year, and every Fellow teaches the substance of the problem, as well the art of oral advocacy. Past moot court topics have included, among others, free speech rights of students on the Internet, the equal protection rights of same-sex couples in schools, and students' Fourth Amendment

rights in the parking lot of the school. The project hosts a fall citywide competition at the federal courthouse, and the finals are judged by a panel of U.S. District Court judges. The spring local and national competitions are held at the Washington College of Law and rounds are judged by Washington attorneys, law professors, and judges.

Because the students spend an entire day with their teachers during the competitions, the Fellows find that they are able to bond with their students and with their students' family members and friends throughout the moot court process in meaningful ways. In fact, some students, like eleventh grader David Mikel, decide to become attorneys because of the moot court experience. David said, "I think I know more about my rights than ever before, and now I think I want to study law."

Through moot court and regular presence in the schools, Fellows clearly develop meaningful relationships with their students. Julie Yeagle opined,

I know how critical it is to provide enthusiastic support for high school students because for many of them, this is the last chance to live a somewhat structured life, to receive positive reinforcement, and to grapple with complex intellectual issues. Sometimes the students are apathetic and irreverent, but more often than not, they're engaged and excited by the fact that they now know a thing or two about the system of law. The other day, for example, a student said, "That would be so tight if I was in court" and was like, "You need to suppress my statements because the interrogating officer didn't read me the Miranda warnings!" How can such a statement not force a wide, toothy grin?

CREATING A NETWORK: NATIONAL EXPANSION

We quickly realized that this model of spreading constitutional literacy through law students worked, and it could work all over the country. Once we felt certain our infrastructure and track record of success were strong enough, we felt prepared to respond to requests for more information and to help set up chapters around the country.

I recently had the opportunity to travel to Jackson, Mississippi, to help start up a Marshall-Brennan chapter through the Mississippi College School of Law, one of two law schools in the state. Sitting around a table of public school students and teachers, the director of the ACLU of Mississippi, two privileged private school students, a veteran Mississippi organizer, and three young attorneys

who represent youth, it struck me that this project touches so many people. Little did we know that our message of constitutional literacy would strike a chord with so many. Sheila Bedi, a civil rights lawyer, codirector of the Mississippi Youth Justice Project, and a Marshall-Brennan alumna, explains how she and other volunteer lawyers kept juvenile offenders who were deprived of education after the disaster distracted with the *Youth Justice* curriculum: “We used the book . . . during Hurricane Katrina, when they would have otherwise been locked in their cells for 24 hours a day, and they found it fascinating and asked that it become part of their regular curriculum.”

With chapters at Sandra Day O’Connor Law School of Arizona State University, Northeastern University Law School, Rutgers University Law School, University of Oregon Law School, and the University of Pennsylvania Law School, as well as the Washington, D.C., partner Howard University Law School, the project has experienced tremendous growth in seven short years. Each chapter has a different flavor in terms of how it is run. Some chapters are very large (in the District of Columbia, we have 60 students each year, whereas the Rutgers program carefully selects 8–10 Marshall-Brennan Fellows each year).

The common thread is a commitment to empowering underserved public high school students to learn about the Constitution from energetic, motivated law students. Because the mostly urban schools in which the law students teach across the country are predominantly low-income schools attended by students of color, we are considered a “pipeline project.” As such, we have had an opportunity to create relationships with the American Bar Association’s diversity efforts, the Council on Legal Education Opportunity, the Law School Admissions Council, and many other groups dedicated to diversifying the legal profession.

The Marshall-Brennan chapters have evolved in different ways. However, they all have five basic elements in common.⁵

First, the Marshall-Brennan Constitutional Literacy Project requires a partnership with the local school system and/or individual local schools. Because of these close partnerships, law students become full participants in the teaching process: they run their own classrooms, assign grades, attend parent-teacher conferences, and manage all aspects of their classrooms, including dealing with discipline and attendance issues.

Second, the Marshall-Brennan Project requires an academic component and supervision. At American University, the Marshall-Brennan Fellows do not receive academic credit for their teaching, but they earn credit in a mandatory two-semester seminar that we offer as a three-hour class in the fall and a two- or

three-hour option in the spring. Generally, the seminar covers both pedagogical issues (how to teach effectively, how to motivate students) as well as substantive law (the cases and material in the textbook).

Third, the Marshall-Brennan Project enriches the high school experience for students in many different ways (i.e., not just creating mentoring or sporadic teaching).

Fourth, to be successful, a Marshall-Brennan Project chapter requires a commitment of staff and resources. Without the support of the law school dean and faculty, it would be difficult to foster the kind of environment necessary for a chapter to be successful.

Finally, affiliation with the Marshall-Brennan Constitutional Literacy Project is a straightforward process that simply involves regular communication with headquarters. To foster communication with headquarters and between chapters, a summit is held in Washington, D.C., each year.

CONCLUSIONS AND OUTCOMES

Mary Beth Tinker, plaintiff in the leading case establishing students' First Amendment rights, often calls young people to action by explaining how, "throughout history, social change has always been initiated by children."⁶ While our role as teachers is to remain as objective as possible and to avoid giving direct legal advice to our students in terms of how to protest against unfair school policies, we have always maintained that the law and reality on the streets are often in conflict. Mary Beth, who has worked as a union organizer and a pediatric nurse, is so committed to our cause that she often speaks at our moot court banquets, annual summit, and end-of-year student awards ceremony. In fact, she has become our best ambassador. As she travels around the country in her spare time speaking to youth about her case and about the First Amendment, she promotes our model as one that works—young adults teaching and learning from young people.

In terms of measurable outcomes, students involved in the project complete pre- and posttests designed to assess their basic civic literacy. In the short term, students demonstrate increased knowledge of their constitutional rights and responsibilities and also develop key lawyering and advocacy skills. These include improved reading, writing, and oral advocacy skills, and an ability to read and digest case law. When we talk to the students at the annual awards ceremony in May, attended by hundreds of high school students from around the

city, they also report numerous sociocultural benefits. These include mentoring from law students and lawyers; positive reinforcement that leads to improved confidence and greater engagement in an academic setting; development of life skills such as advocating for oneself as a consumer and citizen; increased community involvement, through volunteerism, working at election polls, and other outlets; greater awareness of college and graduate school options; and referral services for legal and other needs for themselves and their families. We encourage the students to stay in school, as data have indicated a correlation between civic involvement (specifically, voting) and high school dropout rates.⁷

One area we wish to better track is the long-term effects for high school students. While we have anecdotal evidence that such effects can be profound, we have not collected formal data, mostly because it is almost impossible to acquire contact information for high school students once they have left their schools.

The benefits for Marshall-Brennan Fellows include improvement of managerial and organizational skills; active participation to effectuate positive change in their adopted community; improved confidence and public speaking skills; networking opportunities with affiliated lawyers, judges, and education officials; higher achievement in law school and greater confidence with the bar exam; and an opportunity to escape the law school “bubble.”

We are very proud of our Marshall-Brennan alums. In the last eight years, alums have gone on to work as senior staff in the District of Columbia government, public school teachers, public defenders, nonprofit founders, and staff attorneys for various education-related advocacy groups. They have become law school professors and elected officials in their community. Many of them keep in close touch with us. Many, including me, feel forever changed by the students they taught and the sense of empowerment engendered by teaching the Constitution.

For example, Nisha Thakker, a former Fellow and 2007 graduate of Washington College of Law, was so moved by her experience teaching at a D.C. residential charter school and at the Youth Services Center that she cofounded a national nonprofit called the National Youth Justice Alliance (NYJA) to create and support partnerships between lawyer and law student volunteers and local detention facilities around the country. NYJA’s goal is to use the Constitution to empower youth in fighting against recidivism.

Also, Eric Lerum, a former Fellow, 2003 graduate of Washington College of Law, and current chief of staff to the deputy mayor for education in the District of Columbia, explains, “My Marshall-Brennan teaching experience shaped my

career path. After my year as a Fellow . . . I saw how much of a need there was for lawyers to work to improve the state of education in DC. . . . This program set me on the path to work in education reform.”

QUESTIONS FOR DISCUSSION

1. In what ways do young people learn about their rights? What issues of rights are currently contested by young people in your communities? How have these struggles changed over time?

2. In your experience, in what ways do social workers build on or fail to engage with the idea that young people hold rights?

3. One of our unspoken “certainties” in social work practice may be that there is a widespread lack of concern for disenfranchised high school students. Yet Ahranjani describes harnessing the “surplus energy of relatively privileged students” to teach students about the Constitution. Are there sources of “surplus energy” in your communities that might be harnessed for work with children and youth? Where are they? What issues might engage them in partnership with young people?

4. In what ways do social workers in your communities engage with those who provide legal advocacy or education for young people? What supports exist for such collaborations? What resistances might arise?

5. What implicit or explicit assumptions about young people are built into the Marshall-Brennan Constitutional Literacy Project? What lessons does this project offer you for your own work with young people?

NOTES

1. See “The Future of the First Admendment: What America’s High School Students Think About Their Freedoms: Executive Summary and Key Findings,” accessed January 16, 2007, at <http://firstamendment.jideas.org/>.

2. “Consolidated Appropriations Act, 2005,” Dec. 8, 2004; 118 Stat. 2809, 3344–45 (Pub. L. 108–447, Sec. 111, Div. J).

3. The American Bar Association produced a report dubbed the “pipeline report” in 2005 documenting the lack of racial and ethnic diversity in the legal profession and in law school. The report is available at <http://www.abanet.org/op/pipelineconf/PipelinePostReport.pdf>.

4. From an excerpt in J. B. Raskin, *We the students: Supreme Court cases for and about students* (2003): 64–66.

5. Adapted from a basic list of requirements produced by Professor Stephen Wermiel.

6. I have had the opportunity to hear Mary Beth, a great supporter of the Marshall-Brennan Project since its inception, speak many times. She reiterated this sentiment at an ACLU conference on students' rights held in Washington, D.C., in October 2006.

7. National Conference on Citizenship, *Broken engagement: America's civic health index report*, September 18, 2006. Accessed January 16, 2007, at <http://www.ncoc.net/conferences/2006civichealth.pdf>.