

Do We Really Need Three Liberal New Yorkers on the Supreme Court?

By Samuel L. Blumenfeld

The nomination of Elena Kagan to the Supreme Court by President Obama seems to ignore the democratic notion that members of the Supreme Court ought to represent a wide constituency of Americans.

If Kagan is confirmed, she will be the third liberal woman from New York City on the Court. Ruth Bader Ginsburg, born in 1933, grew up in the borough of Brooklyn, New York. Sonia Maria Sotomayor, born in 1954, grew up in the borough of The Bronx, New York. And Elena, born in 1960, was raised in the borough of Manhattan. Indeed, she grew up on the upper West Side, home to the largest concentration of liberals in the United States.

All three women are quite capable lawyers, with distinguished careers in academia and law, but representative of a very narrow political philosophy dominant in New York City. America is a very big country, with fifty states, with lots of able legal minds that could contribute a less leftist view of American politics and law. However, a brief review of the backgrounds of the present justices should answer the question: do they represent an adequate cross-section of the American experience?

Associate Justice Anthony M. Kennedy was born in 1936 and raised in Sacramento, California. His father was a noted attorney with influence in the California legislature. His mother was active in civic activities. Kennedy graduated from high school in 1954 and then went on to Stanford University where he got a degree in 1958 in Political Science. From there he studied at the London School of Economics, founded by Fabian socialists as a means of capturing the minds of the elite. He then got a law degree at Harvard Law School.

Associate Justice John Paul Stevens, the oldest judge on the bench, was born in 1920 to a wealthy family in Hyde Park, Illinois. His father, an attorney, became an owner of hotels, and his mother taught high school. He attended elementary school at John Dewey's famous Progressive Laboratory School at the University of Chicago, got his B.A. at the University in 1941, and served in the U.S. Navy in World War II. He then got his law degree at the Northwestern University School of Law in 1947.

Chief Justice John G. Roberts was born in 1955 in Buffalo, New York, then moved with his family to Long Beach, Indiana. His father was plant manager at Bethlehem Steel. Roberts attended both elementary and secondary Catholic schools and graduated from Harvard College with an A.B. in history. He then moved on to Harvard Law School, where he got his J.D. in 1979.

Associate Justice Antonin Scalia was born in Trenton, New Jersey, in 1936. When he was six, his parents moved to Elmhurst, Queens, a borough of New York City. His father became a Professor of Romance Languages at Brooklyn College, and his mother taught in elementary school. Scalia attended public elementary school and the Jesuit-run Xavier Catholic High School in Manhattan. He attended Georgetown University in Washington and Harvard Law School where he got his J.D. He and his wife have nine children. No wonder he's a conservative!

Associate Justice Clarence Thomas was born in Pin Point, Georgia, in 1948 to parents whose ancestors were slaves. His father, a farm worker, left the family when he was two. His mother, a domestic worker, unable to support her children, took them to live with her parents in Savannah, Georgia. There Clarence fell under the strong influence of his conservative grandfather who urged him to get a good education. Young Clarence, raised as a Roman Catholic, almost went into the priesthood. He attended Holy Cross College in Worcester, Massachusetts, where he graduated in 1971. Then to Yale Law School where he obtained his J.D. in 1974. He was greatly influenced by the writings of Thomas Sowell and Ayn Rand.

Associate Justice Samuel Alito was born in Trenton, New Jersey, to Italian parents in 1950. His father, an immigrant, became a high school teacher and later Director of New Jersey Legislative Services. His mother also taught school. After his graduation from high school in Hamilton Township, a suburb of Trenton, Alito went on to Princeton where he graduated in 1972. He then studied in Italy. Back in the U.S. he joined the U.S. Army Reserve. In 1975 he obtained his J.D. from Yale Law School. He is the second Italian-American and the 11th Catholic to serve on the Court.

Associate Justice Stephen G. Breyer was born to a middle-class Jewish family in San Francisco in 1938. His father was Legal Counsel to the San Francisco Board of Education. After graduating high school he attended Stanford University where he got his A.B. in 1959. From there he attended Oxford University. He finally got his law degree from Harvard Law School. He became a Professor of Law and later taught at the very liberal Kennedy School of Government at Harvard in 1977-80.

So what do we have on the Court? Five Catholics: Roberts, Scalia, Thomas, Alito, Sotomayor. Two Jews: Ginsburg and Breyer, which will become three if Kagan is confirmed. Two Protestants: Kennedy and Stevens. Two Italians. One Puerto Rican. If Kagan replaces Stevens, there will be only one Protestant on the Court. That seems a bit odd in a nation with an overwhelmingly Protestant population. But it is the Catholics who represent the conservative view, while the Protestants and Jews usually vote liberal.

With Kagan we will have four New Yorkers, one of whom, Scalia, is conservative, two liberal Californians, and two Midwesterners. The only law schools in America with great political influence seem to be Harvard and Yale. But I think that many readers will agree that the one truly remarkable American on the Supreme Court is Clarence Thomas, descendant of slaves, whom the liberals tried so hard to destroy.