

In Memoriam: Burke Marshall

Family, friends, and colleagues gathered together at memorial services in New York City and New Haven last year to pay their respects to the late Burke Marshall '51, the Nicholas deB. Katzenbach Professor Emeritus of Law, who passed away on June 2, 2003, at the age of 80. A towering figure in the civil rights movement of the 1960s, and a beloved professor at Yale Law School since 1970, Marshall's passing evoked tributes from many individuals who had worked alongside him in his efforts to achieve justice and equality for all.

IN THE 1960s, IN BOBBY KENNEDY'S JUSTICE DEPARTMENT, Burke said and did things that required **A MEASURE OF COURAGE** his Yale Law School colleagues regarded with awe, though we never told him so directly — at least I never did, to my regret. Of course, we all believed what Burke believed, and pledged allegiance to the same ideals. But Burke — Burke of the soft voice, Burke of the stooped shoulders, Burke of the courteously deferential gesture — Burke stood up when it mattered and declared our shameful hatreds to be wrong and against the law — immediately, completely, and irrevocably against the law. Then, and later, Burke taught us, by word and by example, that there can be no temporizing with injustice, no equivocating with its meaning, no postponement of the urgent demand to root it out completely, but only the swift and dutiful offer of help to those who need protection against it.

Anthony T. Kronman '75 *Dean, Yale Law School*

HE WAS SUCH an unobtrusive presence. He became the context for **WHAT IS POSSIBLE IN YOUR LIFE**. I feel unaccompanied without him. So, goodbye Burke, truth-teller, behind-the-scenes freedom fighter, quiet, upright, standup guy, unself-effacing hero, always-there, gentle friend. No more long discussions of cases, where your simple questions always turn out to be the most crucial ones. No more surprise, early-morning phone calls, about the birds outside the windows, or your favorite pink flowers, or the train trips you dreamed of taking through the English countryside in the spring....No more four-hour lunches, where you, old school, grabbed the check with ever creative and unanswerable arguments that became a long-running joke. "You can take me out to dinner when you have a job." "It was my idea." "You came all this way." And then late last year, I conceded defeat for the first time. "Burke, you never are going to let me take you out, are you?" And so did you. "You can pay next time." You won that one, too.

Catharine A. MacKinnon '77 JD
*Elizabeth A. Long Professor of Law
University of Michigan Law School*

WHEN I THINK of Burke Marshall, I think of someone who really represents the very best that America has to offer in its continuing and unfinished business of justice and equality. There isn't any doubt that we are a better country because of Burke Marshall. There isn't any doubt that **HE REMAINS A HERO** for anyone who understands how difficult America's journey in dealing with race has been and continues to be. I hope that as we honor him, as we think of the legacy that he leaves, as we remember the incredible courage that he showed on behalf of his ideals and his rock-bottom belief in the American capacity for justice that we will inspire others to follow in those footsteps. I'm struck how difficult it seems to be these days for people to stand up and speak out, to take on the forces of reaction and radicalism, to understand so clearly that many of the same voices that we hear today who wish to turn the clock back were the ones who opposed every step of the way the important laws that Burke Marshall championed.

Hillary Rodham Clinton '73
Senator, New York



TO ALL OF US who knew him and worked with him and loved him, Burke Marshall was the right person at the right time at the right moment for the civil rights revolution. At one of those rare, critical, defining moments in the history of our country, the opportunity was there to take the right path, and because of Burke we did.

In those crucial years of America's epic struggle against injustice, Burke traveled thousands of miles to resolve the most difficult civil rights issues of those times. He went everywhere he was needed most, persuading local authorities to desegregate bus stations and train stations and other public facilities. Police dogs were called off. Fire hoses were put away. Peace began to return in Montgomery and Birmingham. James Meredith entered the University of Mississippi. In his quiet unimposing way, **BURKE GUIDED GOVERNORS, MAYORS, AND CITIZENS** alike back from the brink of unending violence of freedom-rider beatings, lunch-counter sit-ins, and street demonstrations. Even those who had called the loudest for massive resistance began to realize that civil rights was an idea whose time had come. I wish we could send him to the Middle East today.

Edward M. Kennedy
Senator, Massachusetts

He taught us. He inspired us. He led us....

We are a nobler country and a fairer nation today because of Burke. No one did it better. No one had better judgment or wiser counsel. No one cared more deeply about justice and opportunity for all. His name will be forever writ large in the history of civil rights of our time. *Senator Edward M. Kennedy*



“THANK YOU, BURKE.”

Nicholas deB. Katzenbach

BURKE TALKED ABOUT his own commitment to teaching. He said, for people who are serious about justice, “concepts of equal justice before law and due process of law...have to be learned. If they don’t want to learn, if they don’t have time to care, if they’ve never heard of it, [we] can’t change that...You have to go into this business, it seems to me, knowing that. Otherwise, you’re paralyzed by your own inability to reform the world overnight—to reform it at all. And if you don’t want to be paralyzed, if you want to work in this field, you’ve got to do the best you can...**TO TEACH BY SHOWING** that something will work and then count on other people or other institutions to take it up....

“You’ve got to treat people in accordance with the Constitution, you’ve got to get the police to go along with it, get the courts to go along with it....The people that should learn from this—our students—aren’t paying attention. They’re doing their own thing on their own laptops at the back of the room. And whatever [we’re] trying to teach them...isn’t getting through because the attention of the people in power to whom it should get through is not being given to problems of this sort.

“I don’t get discouraged by that, but I can see that anyone looking...from the outside would say, ‘Well, you’ve really done nothing.’ I mean if you take a grand concept, like those in the 14th Amendment, and [ask] ‘Are they real, are they true, even in the United States?’ The answer is no. And [we] can’t affect that. All [we] can do is teach, so that people who want to learn can learn....”

Christopher Stone ’82
Director, Vera Institute of Justice



BURKE LIKED the Law School. It was his home. He liked teaching. He was an excellent teacher. **WITH SEVERAL SENTENCES HE WOULD CLARIFY A VERY COMPLICATED PROBLEM.**

He liked his students. He kept strong ties with many of them. He would tell me about their achievements, and failures.

But his heart—his heart was in the past: in the civil rights movement, in the streets of Alabama, in the pictures and songs of those days, in the drive for equality and social justice.

Burke is gone. But his spirit is with us. I do hope that his dream about equality and social justice will stay with all of us forever.

Aharon Barak
President, Supreme Court of Israel



MY SONS TELL ME that Burke made the greatest speech their classmates at Exeter had ever heard. The occasion was morning chapel when Burke was presented with Exeter’s highest award, the John Phillips medal. The headmaster spoke at length about Burke’s accomplishments. The dean then spoke at even greater length about Burke’s accomplishments and presented him the medal. The student body politely applauded, and settled back on the hard wooden benches to hear his speech. Burke went to the podium and turned to the headmaster and dean: **‘THANK YOU,’** said Burke, and sat down. The student body rose as one man, shouting, applauding, and stomping. Chapel was over and there was time to get a breakfast snack at the Grill before the first class began. Burke always knew his audience.

Let me conclude by saying for myself of a friendship of more than sixty years and, I know, for all his friends, colleagues, students, and a nation grateful for what he did for all of us in so many different ways, “Thank you, Burke.”

Nicholas deB. Katzenbach ’47