



Judge Not, Lest Ye Be Judged

In the past few years, it has become popular sport in certain circles to attack our nation's sitting judges. Unpopular judicial decisions are denounced as "outrageous," and individual judges described as "activists running amok." And, believe it or not, political zealots suggest that violence

toward judges is perhaps deserved.

The result has been, among other things, a proposed South Dakota referendum amending the state's constitution to allow its judges to be criminally indicted by "special grand juries" for rendering "unconstitutional" decisions; a U.S. House bill making it an impeachable offense for a federal judge to fail to recognize the primacy of God and religion as a basis for our legal system; and, a bill potentially stripping the federal courts, including the Supreme Court, from hearing constitutional challenges to a Defense of Marriage Act or to the phrase "under

God" in the Pledge of Allegiance. This hawkish attack on our nation's judiciary reached its nadir, perhaps, when a federal trial judge and federal appellate judge panels in Florida soundly and correctly rejected the Bush administration's and the Republican Congress's attempt to create federal court jurisdiction over the Terri Schiavo case. For their work, these judges, most Republican appointments, faced impeachment threats from Rep. Tom DeLay, who has justice system problems of his own.

There are more than 30,000 state and federal judges—highly educated men and women—who decide cases in our civil and criminal courts. They resolve disputes, they keep the peace, and they render justice.

We Americans, when comparing our society with that of others, with not a small amount of contempt and haughtiness, describe it as one operating under a "rule of law" system. And it is the American judges, severely overworked and underpaid, who carry that system on their backs every day.

First-year lawyers at Wall Street law firms make more money than 95 percent of our sitting judges; judges are the last of our government employees to receive pay increases, and many judges do not even get cost of living increases.

Judges have a vital role, interpreting laws passed by legislators and overseeing the jury trial system, still a marvel in the 21st century and an institution that is virtually unique to the United States. They administer social justice through the "common law" in those areas of everyday life where the legislature has not acted or will not act, and, occasionally, a very few of them are called upon to decide whether legislation or executive conduct is unconstitutional.

We expect our judges to be wise, decent, fair and restrained. Almost without exception, they are. As with every other walk of life, however, there is the occasional bad apple. But judicial corruption in this country is extremely rare and, when uncovered, is dealt with surely and swiftly.

There will always be unpopular judicial decisions and, sometimes, even wrong decisions. But the recent demands to investigate, impeach, punish or lynch the judges who make these decisions are misguided at best and poisonous to our society. Judicial independence—the ability to make difficult and politically unpopular but correct legal decisions—is an important part of the checks and balances that the framers of the Constitution intended 230 years ago. If you want a society that places judges under the thumbs of those in power, you need look no further than Hitler's Third Reich or Stalin's Soviet gulags.

Back off, oh ye who would unfairly criticize judges for political gain! After all, it is you political zealots who would throw stones at our nation's sitting judges today who may need their protection tomorrow.

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