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Another judicial outrage

Sometimes it's the little things that make big issues snap into focus. Any sentient adult, beholding the spectacle of the increasingly imperious American judiciary, has cause to worry. Where will the usurpation of the democratic process stop? Robert H. Bork has done heroic work exposing the way politically correct, academic leftism has transformed the American judiciary from an institution whose aim is to *uphold* and *apply* the law into an institution whose aim is to *make* the law. In many essays (including essays for *The New Criterion*) as well as in *The Tempting of America: The Political Seduction of the Law* (1997) and *Coercing Virtue: The Worldwide Rule of Judges* (2003), Judge Bork has provided an eloquent if depressing portrait of a judiciary intoxicated by hubris and therefore party to what Tocqueville called democratic despotism.

Judge Bork deals with many large issues—abortion, race relations, homosexual “marriage”—in his writings about the imperial judiciary. But a recent item in *The San Francisco Chronicle* reminds us that the long arm of the judiciary is meddling in the daily life of local communities on a whole host of quotidian subjects. We write as the Christmas season reaches its apogee. It's the rare town hall or school hall that can get away with any overt homage to Christmas—the ACLU, abetted by a squadron of lawyers and sympathetic judges, spoor like bloodhounds in search of any display or behavior that might be construed as violating the Establishment Clause of the First Amendment. The fact that saying a prayer in school or exhibiting a crèche on town property is regarded as contravening the edict that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof” shows what immense hermeneutical ingenuity is lavished on emasculating religion and excluding it from the public square.

It's a curious thing, though, that the ACLU, et al., get worked up decidedly more about the public display or practice of some religions than others. Thus the *Chronicle* for December 12, on page A 2 informed readers that “A federal judge says a Contra Costa County [California] school was merely teaching seventh-graders about Islam, not indoctrinating them, in role-playing sessions of a history class.” A teacher named Brooke Carlin required students to

adopt roles as Muslims for three weeks... . She encouraged them to use Muslim names, recited prayers in class, required students to recite a line from a prayer and made them give up something for a day, such as television or candy, to simulate fasting during Ramadan. On the final exam, students were asked for a critique of elements of Muslim culture.

So, while school children across the country are deprived of the Our Father and the Pledge of Allegiance (“one nation under God”: we can’t have that now, can we?), it is just dandy that teachers in Contra Costa County, California, require students to spend three weeks—*three weeks*, mark—pretending to be Muslims. As Richard Thompson, president and chief counsel for the Thomas More Law Center in Ann Arbor, Michigan, observed, this episode was a flagrant example of “religious indoctrination” and one, moreover, which showed “a double standard, one for the Christians and one for the other religions.” It’s another step down the vertiginous path of moral relativism: all opinions are equal, but any opinion hailing from the accumulated wisdom of Western civilization is less worthy of respect than opinions from anywhere else in the world. It is nice work if you can get it.

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