New York Times op-eds’ often lack sense. But when it comes to judiciary, idiocy is the rule.

By Lev Tsitrin

It is hard to say something sensible on a topic one does not understand. The classic case in point is relativity. The moment Einstein became a popular icon, the public demanded to know what it was that made him famous – and popularizers were quick to meet the demand, publishing book after a book, though without much actual success in explaining relativity – perhaps because they themselves hardly understood what they were trying to explain. To this day, relativity preserves its mystique outside the circle of professional physicists.

But at least, relativity deals with facts we do not encounter in our daily lives. Yet why would something as mundane as judging be a mysterious – nay, almost mystical, activity? Why is it being treated that way by the press?

Consider one "Jesse Wegman, a member of The Times editorial board, where he writes about the Supreme Court, law and politics." Here is how this expert on things legal reacted to the news that, when someone suggested to the Supreme Court Samuel Alito at a party "that religious Americans have to keep fighting "to return our country to a place of godliness," he said, "I agree with you."" – "it should shock us to hear him lay out his worldview so bluntly – and to a woman he never met before. It shows an utter lack of regard for the court's delicate posture of neutrality in the constitutional system and American society."

Huh? Apparently, in Mr. Wegman's view judges – unlike other Americans (or other humans, for that matter) – carpenters, car mechanics, doctors, are not supposed to have a personal "worldview," or at least are not supposed to share it, at

least not with strangers. Somehow, having a store of personal human attitudes that each of us accumulates as we go through life, and commenting on it – something perfectly natural for you or me or millions of others of every profession and persuasion, compromises a person who works as a judge, undermining "the court's legitimacy [that] relies entirely on the trust of the American people."

This is utter hogwash, Mr. Wegman, and it reveals your utter ignorance of what you are writing about. Let's start with the latter point. If Mr. Wegman ever attended a court procedure, he would have noticed an invariable presence of an armed marshal in the courtroom – the presence which adds much gravitas to the proceedings, given that everyone present is aware that one risks being thrown out of the room – or worse – for disobeying the judge. (I still vividly remember a 6 am visit by two marshals who sported full body armor, handguns strapped to their sides, who were curious to know, after I filed a lawsuit against a federal judge accusing him of fraud, whether I planned to kill him – and my having to come to the marshal's office in a federal court house in lower Manhattan for a different, yet similar conversation concerning a quote in my argument that a DA deemed threatening to appellate judges. So no, Mr. Wegman, it is not the trust in the supposed honesty and impartiality of judges that underpins the legitimacy of courts – but the burly, armed fellows who ominously hover in the back, and may come knocking on the door.)

Not only does Mr. Wegman not know where courts' legitimacy comes from, but he is equally ignorant of how judging is done. Else, he would not have wasted words like "posture of neutrality." If federal judges were "neutral," there would be no practice of replacing parties' argument in judges' decisions with "sua sponte," bogus one of judges' concoction which they proceed to adjudicate to decide cases the way they want to, rather than "according to law". If federal judges

were “neutral,” they would not have given themselves in Pierson v Ray the right to act from the bench “maliciously and corruptly” – i.e. emphatically *not* “neutrally.” And, if judges were neutral, there would be no judicial nomination fights in the Senate. What would there be to fight about if the outcomes of cases were the same no matter what political views a judge holds?

Clearly, judges are not “neutral,” nor are they intended to be so by those who nominate and confirm them to the bench – in the hope that their biases will shape the public policy.

And I know for a fact that the *New York Times* itself does not want “neutral” judges – because my innumerable emails and calls to the paper about judicial fraud are never answered – including by Mr. Wegman, “a member of The Times editorial board, where he writes about the Supreme Court, law and politics.” Not only is the paper in the wrong when it comes to judges and judging – but it refuses to know what is right. Not only is the *New York Times* blind – but it is wilfully blind.

So much for the *New York Times’* concern for the integrity/impartiality/”neutrality” of judges. The paper’s op-ed editors and writers could not have cared less about judicial “neutrality” – though they love to throw mud at the judges whose “biases” – i.e. worldviews – they hate. Even a completely innocent exchange expressing a hope for a more “Godly” society serves the purpose: perhaps the mud will stick, and help put on the bench judges whose worldviews are more the *New York Times*‘ liking. But as to genuinely impartial judging – the judging in which the parties’, rather than the judges’ argument gets adjudicated, so judging is done “according to law” rather than “maliciously and corruptly” according to judges’ bias – from that kind of judging the *New York Times* runs away as fast as the devil proverbially runs from the holy water. This is why Mr. Wegman writes such drivel, this is why my pleas for shedding the light of journalistic scrutiny on judicial fraud, and for adding

judicial “sua spontism” to the criteria of judicial misconduct (which, incidentally, it most definitely is) pass unnoticed. Who wants “neutral” judges? Not Mr. Wegman, not the *New York Times*! Hypocrisy holds sway, in the mainstream press as much as in the federal courts.

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