

New York Times worries about judicial bias – observable in display of a flag, not in judicial fraud

By Lev Tsitrin

I'll bet you anything that if biased judging stared in the face of Jodi Kantor, "a Pulitzer Prize-winning investigative reporter and co-author of *"She Said,"* which recounts how she and Megan Twohey broke the story of sexual abuse allegations against Harvey Weinstein, helping to ignite the #MeToo movement" and Abbie VanSickle who "covers the United States Supreme Court for *The Times* [who] is a lawyer and has an extensive background in investigative reporting," they'd never be able to see it.



For me, it is a safe bet: I e-mailed those ladies, along with other [New York Times](#)ers, at least a trillion times that they should look into federal

judges routinely replacing in their decisions the parties' argument with the bogus argument of judges' own concoction, and when sued for fraud, defending themselves with a self-

given in *Pierson v Ray* right to act from the bench “maliciously and corruptly,” never getting a reply.

Judges act as parties to the case, concocting argument from the bench for the party they want to win as if they were that party’s lawyers? To Misses Kantor and VanSickle that does not signal the absence of impartiality. Judges *want* a particular party to win? Not an indicator, either. Judges gave themselves the right to be “corrupt and malicious” on the bench? How does *that* hint at bias?

But if you think that nothing can arouse those ladies’ suspicions that something is amiss on the bench, you are wrong. Just read the title of their report for the answer: [“Display at Alito’s Home Renews Questions of Supreme Court’s Impartiality.”](#)

Oh ah! How shocking! “An upside-down flag, a popular symbol with Trump supporters contesting President Biden’s victory, appeared on Justice Alito’s front lawn in January 2021” – and now “jurists and politicians ... express concerns about coming court decisions.” ““Flying an upside-down American flag – a symbol of the so-called Stop the Steal movement – clearly creates the appearance of bias,” Senator Richard J. Durbin, Democrat of Illinois and chairman of the Judiciary Committee, said in a statement on Friday. “Justice Alito should recuse himself immediately from cases related to the 2020 election and the Jan. 6 insurrection.””

As if Senator Durbin cares about bias, and lack of impartiality on the bench. He does not give a hoot anymore than the ladies from the *New York Times* do. I know it because I wrote to the Senate Judiciary Committee (sending the material in a certified letter, for that matter!), and got no response. Just like the press, the politicians do not care about actual bias on the bench – but only about its “appearance.”

So here we go: nobody in power cares. Federal judges are no personification of Lady Justice. They are not blindfolded. They can manipulate parties' argument all they want, replacing it in their decisions with the argument of judges' own, acting as lawyers to the favored side before acting as judges, adjudicating in their judicial capacity the argument they made in their lawyerly capacity. They can give themselves the right to be "malicious and corrupt," and hide behind it when sued for fraud. None of this is an indicator of bias – it is just business as usual, not to be noticed by their fellow-judges, senators, academics, and the mainstream press. But put an upside-down flag on your lawn (a right that any American has under the First amendment) – and all the hell breaks loose! It's "bias!"

No it isn't, the ladies of the *New York Times*, the senators, and the academics. It is bias when judges cook up, and then adjudicate judges' own argument – because no one can be impartial towards the argument of one's own making. Everyone is biased towards their own views, judges including.

This is why there supposed to be a set procedure – it is parties who present the argument, and the judge merely weighs it on the scales of justice, awarding victory to the party with a stronger argument. If that procedure is followed, judging will be impartial even if the judge flies an upside-down flag on his lawn. But if the judge is making his own argument for the parties, than the decision will be biased, thought the flag is flown aright.

But try to tell this to Misses Kantor and VanSickle of the *New York Times*, or the members of the Senate Judiciary Committee, or the academics. Their ears are stopped, their eyes are closed, their mouths are shot. Unless there is an upside-down flag on a judge's lawn. This triggers shouts of indignation and suspicions of bias – but the actual bias evident in judge's replacement of parties' argument with a bogus one pulled from thin air causes a mere shrug of the shoulders at

best.

We live in a Kafkaesque world, a world in which “masses are asses” and the press and the senators and the academics manipulate those masses by distracting them with nonsense like an upside-down flag. So sad.

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