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Issues raised by Robert H. Bork in *Coercing Virtue*

How liberals are using international law to promote their agenda and create a boomerang effect in the United States:

- By creating novel new international laws, the New Class hopes to outflank American legislatures and courts by having liberal views adopted abroad (by foreign governments and organizations such as the United Nations) and then imposed on the United States.
- This approach is working. These new laws boomerang back to the United States; courts now cite the decisions of foreign courts in “interpreting” our Constitution.
- Radical decisions on social issues, values, religion, and speech that are made by foreign legislatures and courts are used to influence court decisions in the United States.
- Decisions made in countries (for example, Zimbabwe) that do not share our basic ideology and viewpoint on human rights are also filtering into legal arguments in the United States.
- The effort to create new rights in each nation is well-orchestrated. For example, an international conference of judges, professors, and social activists was convened in London in 1999 to consider ways of making homosexual conduct a constitutional right in nations such as America.
- Supreme Court judges have begun citing foreign decisions—and treaties not ratified by this country—to support their “interpretations” of the Constitution: for example, Stevens and Brennan on capital punishment; Breyer on gun control and stays of execution.

How the increased internalization of the law threatens the United States and its citizens:

- Fueled by international resentment against American power, laws, and resolutions passed by bodies such as the United Nations and International Criminal Court (or World Court) now hamper America’s ability to defend itself and the interests of our citizens.
- Thanks to a statute created by the ICC (signed by President Bill Clinton but then rejected by President George W. Bush), Americans can be tried by the court for alleged crimes by the countries that have ratified the treaty—even though the United States itself rejected the treaty.
- Service-members tried by the ICC would be subject to vague standards, unaccountable prosecutors, and would not have the protection of the U.S. Constitution.

How the United Kingdom’s willingness to honor new internationalized laws aids terrorists and impedes the execution of justice:

- Great Britain has been incapable of deporting foreign terrorists because Article 3 of the European Convention on Human Rights forbids the removal of people to countries if they might suffer “inhumane or degrading treatment.”
- A British court refused to extradite a German citizen who was facing a double murder charge (and therefore the death penalty) in Virginia. The International Court of Justice (World Court) has tried to intercede on death penalty cases in the United States.

International law is being used in abusive (and often absurd) ways to threaten and punish global leaders:

- U.S. courts have agreed to try cases involving acts committed abroad by foreign nationals against foreign nationals. These cases have no connection to the United States or its citizens.
- Other nations have claimed the authority to apply criminal sanctions to conduct having no relation to their own countries.
- World leaders are sued and sometimes tried for crimes in nations where they did not occur: former Chinese prime minister Li Peng and Robert Mugabe of Zimbabwe, Sloban Milosovic of Yugoslavia, and Prince Charles and Margaret Thatcher (for human rights violations in Northern Ireland and Libya) in the United States; Ariel Sharon in Belgium; and Augusto Pinochet in Spain (despite the objections of his native Chile, which reached a settlement with him). President Bill Clinton was sentenced to twenty years imprisonment in Yugoslavia for the 1999 air campaign against Serbia.

The U.S. Supreme Court on free speech:

- The Supreme Court has inverted the speech clause in the Bill of Rights so that pornography and calls for violence and lawbreaking are better protected than political speech—robbing us of an indispensable element of democratic government.
- Limiting campaign contributions inhibits political speech. Candidates are forced to devote large amounts of time to raising money in small amounts—time they would otherwise spend campaigning. Fears of corruption could have been dealt with by public disclosure requirements.

The U.S. Supreme Court and religion:

- The Supreme Court has moved from tolerance of religion and religious expression to fierce hostility.
- The judiciary’s power to marginalize religion in public life has vastly increased through a change in the law regarding what lawyers call “standing.”
- Current interpretations of “standing” have allowed taxpayers to sue under the establishment clause to prohibit federal expenditures from aiding religious schools. Every single provision of the Constitution is immune from taxpayer or citizen enforcement—except the one used to attack manifestations of religion.

- We are now subjected to a flood of lawsuits by people whose complaint is that they are offended by seeing a religious symbol, such as a crèche or a menorah during the holidays—or even by the sight of the Ten Commandments on a plaque in a high school.
- Lower courts have forbidden “establishment of religion” in the most innocuous practices: for example, a high school football team praying for an injury free game or a local ordinance, which forbid the sale of non-kosher foods as kosher.

Judicial imperialism in Israel:

- The Israeli Supreme Court is making itself the dominant institution in the nation, wielding an authority no other court in the world has achieved. It has (among other things) gained the power to choose its own members, wrested control of the attorney general from the executive branch, and exercised the authority to override national defense measures.
- Since 1978, the driving force has been court president Aharon Barak, who many now view as the most influential person in Israeli public life.
- The Barak court seized control of the office of the attorney general, giving it exhorbinant powers that have often undermined the ability of the prime minister to govern.

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