Whom Is The Supreme Court Listening To?

by Phyllis Schlafly Nov. 10, 2004

Google Ads are provided by Google and are not selected or endorsed by Eagle Forum

Globalism doesn't mean just accepting foreign countries' products and people across our borders. Supreme Court justices are beginning to manifest a curious fascination with foreign legal systems, too.

Speaking at Bill Clinton's alma mater on October 26, Justice Sandra Day O'Connor told the Georgetown audience that international law "is vital if judges are to faithfully discharge their duties." She was dedicating Georgetown's new international law center.

"International law is a help in our search for a more peaceful world," O'Connor declared in her address, omitting to mention that every attempt to use international law and leagues has been an abysmal failure in preventing war. Besides, the U.S. Constitution gives Congress, not the Supreme Court or any international body, the authority to declare war.

The effort to import international law into the United States has nothing to do with preventing war. The purpose is to change our Constitution without obtaining approval of the American people through the amendment process.

The Supreme Court recently accepted amicus briefs from Mikhail Gorbachev and from 48 foreign countries in a case considered this fall involving the death penalty for juveniles, Roper v. Simmons. You read that right; the High Court is listening to Gorbachev's opinion about what U.S. criminal law should be!

The justices have increasingly cited foreign law to try to undo our death penalty, even though the U.S. Constitution in several places expressly recognizes its legality. However, the justices are very selective about which countries they cite, since executions are common in many countries.

Nor do the judges cite stricter abortion laws around the world as they strike down state and congressional bans on partial-birth abortion.

Earlier this year, the Supreme Court allowed the Commission of the European Communities for the first time in history to present oral argument as a friend of the Court. This foreign governmental body was not even a party in the dispute between Intel and Advanced Micro Devices, yet the justices granted it a special right to argue that is rarely conferred even on American entities.

The Supreme Court's famous sodomy ruling, Lawrence v. Texas, which encouraged the current push toward same-sex marriage licenses, was based on references to the European Court of Human Rights and other foreign sources as examples of "emerging awareness" about sex. But that opinion, written by Justice Anthony Kennedy, conveniently omitted any reference to countries, such as India, where homosexual behavior is a crime meriting imprisonment.

In her Georgetown speech, O'Connor bragged that "we operate today under a very large array of international agreements, treaties, organizations." Such language is reminiscent of Bill Clinton's boast to the United Nations that he was pushing the United States into a "web of institutions and arrangements" for "the emerging international system."

International agreements usually have negative fallout. One law enforcement expert dubbed NAFTA the North American Free Trafficking Agreement because it has greatly expanded illegal drug smuggling into our country.

Section 3331 of Title 5 of the U.S. Code requires high-ranking officers, including Supreme Court justices, to take this oath: "I, ___, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

Violation of this oath should be an impeachable offense.

Yet, six of the nine Supreme Court justices are now on record using references to foreign law in their opinions. In a speech last year, Justice Ruth Bader Ginsburg told the American Constitution Society that "your perspective on constitutional law should encompass the world."

Three Supreme Court justices disagree. Most Americans would agree with Justice Antonin Scalia, who wrote that the Court should not "impose foreign moods, fads or fashions on Americans."

It's time for the American people to let the justices, and all future judicial nominees, know that we believe it is their duty to base their decisions on the U.S. Constitution, and that it is a violation of their oath of office to base decisions on foreign decisions or practices.