Introduction to Section VI: Understanding and Improving Our Judicial System

Hanna Borsilli

Follow this and additional works at: http://ideas.dickinsonlaw.psu.edu/dlr

Part of the Judges Commons, Law and Politics Commons, Law and Society Commons, Legal History Commons, Legal Profession Commons, and the Legal Writing and Research Commons

Recommended Citation
Available at: http://ideas.dickinsonlaw.psu.edu/dlr/vol122/iss1/24

This Section VI is brought to you for free and open access by Dickinson Law IDEAS. It has been accepted for inclusion in Dickinson Law Review by an authorized editor of Dickinson Law IDEAS. For more information, please contact jja10@psu.edu.
Introduction to Section VI: Understanding and Improving Our Judicial System

An independent judiciary is one of the cornerstones of democracy, and judicial independence ensures that courts are insulated from “arbitrary and irrelevant influences.” Although judicial independence attempts to prevent outside influences from infiltrating judicial decision making, courts must continually balance competing interests that exist within the judicial system. In her closing remarks at the 2010 Penn State Law Review Symposium, Chief Judge Lee H. Rosenthal eloquently summarized these competing interests, which are inherent to the judicial system and the legal profession at large: “one of the most difficult and . . . permanent problems which a legal system must face is a combination of a due regard for . . . substantial justice with a system of procedure rigid enough to be workable.” Indeed, courts continually adopt alternative methods designed to help litigants achieve “substantial justice” more efficiently; however, whether such procedures actually achieve just outcomes or make the justice system more efficient, is debatable. Even more debatable is the notion of what constitutes “substantial justice.”

The opinions of the late Supreme Court Justice Harry Blackmun suggest that ensuring justice requires judges to consider the unique circumstances of particular litigants. From his opinions ad-

4. Deborah R. Hensler, Our Courts, Ourselves: How the Alternative Dispute Resolution Movement Is Re-Shaping Our Legal System, 108 Penn St. L. Rev. 165, 195 (2003) (explaining that while alternative dispute resolution programs were designed to streamline access to the courts, many programs make it harder for litigants to bring cases).
dressing preclusion between state and federal cases,\textsuperscript{5} to perhaps his most famous opinion regarding abortion rights,\textsuperscript{6} Justice Blackmun emphasized the need for judicial flexibility to consider “all relevant factors”\textsuperscript{7} in a case because he believed that the Constitution itself required “flexibility” to account for “improvement[s] in standards of decency as society progresses.”\textsuperscript{8} In his jurisprudence, Justice Blackmun heavily weighed individual liberties over competing interests,\textsuperscript{9} and the topics he analyzed in many of his seminal cases continue to be litigated today.\textsuperscript{10}

Just as disputes over the issues addressed by Justice Blackmun remain today, the inherent conflict in the judicial system between achieving substantial justice and maintaining workable procedures remain as well. The following articles, which were previously published in the \textit{Dickinson Law Review}, continue to offer guidance in the present on how best to balance conflicting interests within the judicial system.

Hanna Borsilli


\textsuperscript{7} Moore, \textit{supra} note 5.

\textsuperscript{8} Pamela S. Karlan, \textit{Bringing Compassion into the Province of Judging: Justice Blackmun and the Outsiders}, \textit{97 Dickinson L. Rev.} 527, 530 (1993) (quoting Jackson v. Bishop, 404 F.2d 571, 579 (8th Cir. 1968)).
