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What Does an Impartial Judicial System Mean to Me?

Impartiality is the principle that no bias or prejudice should be present when making a decision. Important decisions should also be based on the use of objective criteria for defining the parameters of the choice. In the American legal system, impartiality is one of the most crucial aspects of justice. The Code of Conduct for United States Judges says “A judge should be faithful to, and maintain professional competence in, the law and should not be swayed by partisan interests, public clamor, or fear of criticism.”ⁱ This indicates the power of our judicial system for judges to put the interests of their duty above that of personal interests. Judges are supposed to be separated from politics. This was one of the reasons that the Founding Fathers made Supreme Court appointments life positions. If judges at the federal level are bound to elections every couple of years, cases that they view as constitutional could be rejected due to popular demand.

As the child of lesbian mothers, I value the power of an impartial judicial system. My parents could not marry and could only claim custody of me through a legal loophole. At the time of the *Obergefell v. Hodges* decision Gallup reported that sixty percent of Americans supported same sex marriage.ⁱⁱ Even with these statistics, this was not a guaranteed decision. While justice Anthony Kennedy did show that he believed marriage was an essential right through his decision to repeal the Defense of Marriage Act, for those in the gay and lesbian community, it would be scary to imagine a world without

judicial impartiality. A judge that does not value impartiality could have altered the outcome in two ways. First, if Supreme Court judges were elected, based on the current campaign finance system, judges would be incentivized to decide on the party with the most money that could fill their campaign coffers. The reason Congress did not pass a bill allowing same sex marriage was the political ramifications based on elections. The Judicial System is the last bastion free from big money interests. Those against same sex marriage were financially connected and could donate large sums of money to a judicial candidate that shared their stance. If judges voted along party lines, and were incentivized to do so, Kennedy, a Reagan appointee and a Republican, would align with the rest of the party; those two important decisions would be reversed. This would have a devastating effect on the millions of Americans that want to be with the partner they love.

This decision has had a tremendous impact on the gay rights movement. In a couple of decades homosexuality went from a mental illness to a protected class in our country. Personally, the role of an impartial judicial system that has prioritized the rights of individuals under the Fourteenth Amendment has guaranteed not only my parents can be who they want to be; they can have their family protected by government intervention. Impartiality has given everybody equal protection under the Constitution. Based on the same example above, *Brown v. Board of Education* would have never been decided on the unpopular stance at the time. Countless court cases would be subject to political squabbling rather than a more unbiased view of the Constitution.

Another aspect of impartiality that judges follow is recusal. If a judge deems a potential conflict of interest could arise if they side with one issue, it is their prerogative to recuse themselves from the hearing. Recuse means that they excuse themselves from

consideration on a case. Elena Kagan has recused herself from cases that cross a path with her past work as Solicitor General. In the case of *Fisher v. University of Texas at Austin*, a case that was important with regards to race in higher education, Kagan recused herself because she had filed the *amicus curiae* brief as Solicitor General.ⁱⁱⁱ The question of recusal is important to determine judicial ethics. The outcome of this case could have sent shockwaves through the college admissions process; her presence and possibly bias could have altered this decision. As a high school student applying to colleges, this decision could have affected my chances at getting into my dream school. For students who feel that this decision affected them in a negative way, being able to point to a judge with a clear conflict of interest would harm judicial credibility. Judges are asked to recuse themselves from a court case. This could create conflicts of interest especially when a judge has close connections with the case. Clarence Thomas' wife worked as an anti-Affordable Care Act lobbyist but he saw no need to step aside while hearing *National Federation of Independent Business v. Sebelius*. Judges should not have the ability to determine their own conflicts of interest because it threatens the impartiality of our judicial system. Americans are fortunate to live in a country that values judicial ethics and we only see few cases of judicial conflicts.

The judicial system of the United States is an example of an impartial system that strives to deliberate in an unbiased manner. It is our role as Americans to trust in the judicial system. Through the apolitical nature of the court and the oath the judges take to be impartial, we can have faith in this system. I am proud that we set a shining example for a judiciary that respects the rights of all individuals and strives to guarantee equality.

ii "Code of Conduct for United States Judges." US Courts. March 20, 2014. Accessed December 4, 2016. <http://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges#d>.

ii McCarthy, Justin. "Record-High 60% of Americans Support Same-Sex Marriage." Gallup.com. May 19, 2015. Accessed December 4, 2016. <http://www.gallup.com/poll/183272/record-high-americans-support-sex-marriage.aspx>.

iii Wermiel, Stephen. "SCOTUS for Law Students (sponsored by Bloomberg Law): Justice Kagan's Recusals." SCOTUSblog. October 09, 2012. Accessed December 4, 2016. <http://www.scotusblog.com/2012/10/scotus-for-law-students-sponsored-by-bloomberg-law-justice-kagans-recusals/>.