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The U.S. justice system is rife with an overexposed, understudied avenger, the tough-on-crime judge. Under the pressure of elective systems, pro-prosecution judges announce that they are "tough on crime" and that their opponents are "soft on crime" to gain votes, and all judges are effectively forced either to adjudicate tough(er) on crime or risk losing office. This phenomenon has become engrained, albeit begrudgingly, in state court culture. The problem is that tough-on-crime judges are antithetical to the American concept of judge; these judges offend, in varying degrees, the three most commonly recognized judicial values: impartiality, integrity, and independence. The Supreme Court opinion in *Caperton v. A.T. Massey Coal Co.* has reinforced due process disqualification of apparently biased judges, arguably including tough-on-crime judges presiding over criminal cases. And, moreover, tough-on-crime judges seemingly stand opposed to the rules of judicial ethics and even ethics in general. For these reasons, they are ripe for disqualification in all criminal cases. This Article provides the first comprehensive study of the pro-prosecution judge and evaluates the systemic (e.g., public funding) and case-specific (e.g., disqualification) remedies to this perplexing phenomenon.

The Supreme Court's decision in *Caperton v. A. T. Massey Coal Co.* highlighted the fragility of judicial independence and impartiality in the United States. A similar, less-noticed fragility of independence and impartiality exists among the arbitrators, mediators and administrative hearing officers who resolve an increasing number of disputes. Everywhere one looks, there is unremarked yet remarkable evidence of the rise of "embedded neutrals," particularly in uneven contexts between one-time and repeat players. This phenomenon becomes particularly worrisome when the embedded neutral's role is due to their special relationship with the repeat player, and the one-time player is not as sophisticated as the repeat player, has not voluntarily or knowingly chosen the dispute resolution forum that will be used to resolve their dispute, and is either unaware of the special relationship between the neutral and the repeat player or effectively unable to challenge it. As dispute resolution becomes a lucrative private business, it is easy to begin to worry about the corrupting influence of repeat business and money on the ability of embedded neutrals to "hold the balance nice, clear and true." The Supreme Court, however, seems largely oblivious to these concerns. The Court has encouraged deference to the decisions and settlement agreements these neutrals produce and has regularly rejected one-time players' claims of structural bias. This Article explores whether the analysis in *Caperton* and its antecedents—i.e., conducting a close examination of the volume and flow of monies that may provide direct and indirect benefit to the neutral, their timing, and the plausibility of their effect on an adjudicated outcome, in order to determine whether the risk of actual bias is "too high" to be deemed "constitutionally tolerable"—could be applied to assess the sufficiency of the impartiality offered by embedded neutrals and private dispute resolution organizations when they are treated as adequate—and sometimes superior—replacements for independent and public trial courts.

NOTES

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) attempts to steer debtors away from chapter 7 and into chapter 13 plans in which they will have to repay a portion of their debt. BAPCPA employs a formula known as the "means test" which deducts certain expenses from income to determine disposable income and the ability to repay. Whether by design or oversight, Congress failed to include student loan repayment as an express, allowable expense in the means test. For some debtors, this means that a chapter 13 plan may not truly reflect the debtor's ability to repay. As a result, some have argued that student loan repayment constitutes a "special circumstance," which merits inclusion in the means test. This Note examines the divergent case law on this issue and the policy implications of not including student loan debt repayment in the means test. The Note argues that courts that have determined that student loans constitute a special circumstance present a more reasoned analysis but that ultimately Congress should amend BAPCPA to deal expressly with student loans.

For decades, U.S. refugee law has restricted women's access to protection. To qualify as a refugee, a person must have a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group (PSG), or political opinion. Because women often suffer persecution that is not clearly on account of the four other enumerated grounds, the only ground that offers hope is PSG. However, the ambiguity of the term PSG, as well as the various approaches taken by courts to analyze whether women should constitute a PSG, have led to inconsistent outcomes. This Note argues that women should qualify as a PSG. It advocates for the adoption of a "bifurcated nexus approach," which will allow women persecuted by state and non-state actors to claim asylum if their state denies protection "on account" of their gender. Further, it argues that case law can be harmonized to include women as a PSG.

LAW & POLICY NOTE