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The New York Times

Justice for Judges: [Editorial]

New York Times [New York, N.Y.] 06 Mar 2010: .20.

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Senior government lawyers, law professors, federal judges and beginning associates at major firms all earn more than the \$136,700 salary of New York trial court judges handling a growing docket of cases.

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New York judges have not seen a pay raise since 1999, not even a token cost-of-living increase. They have justly complained about it. Legal scholars have pointed out how damaging it is to the cause of justice. Editorial pages, like this one, have denounced lawmakers' baldly political tactic of linking the salaries of judges to their own.

Last week, New York State's highest court weighed in, adding a constitutional argument to the increasingly urgent fight to raise badly lagging judicial salaries.

New York ranks near the bottom among states for judicial compensation. Senior government lawyers, law professors, federal judges and beginning associates at major firms all earn more than the \$136,700 salary of New York trial court judges handling a growing docket of cases. Comparable judges in New Jersey earn nearly \$30,000 more. Beyond the unfairness to New York's 1,300 judges, the math is hardly an inducement for the most qualified and able lawyers to seek judicial office.

The new Court of Appeals ruling addresses three lawsuits filed by current and former state judges, including a 2008 suit brought by the state's former chief judge, Judith Kaye, after years of trying to reason with Albany's players.

The court correctly declined to say that the failure to grant cost-of-living increases amounted to an unconstitutional diminution of judges' wages, or to challenge the Legislature's power to set judicial compensation. But the decision found that the Legislature's tying of judicial pay raises to legislative pay and other unrelated bills violated the separation of powers doctrine. The court said that approach treated the matter "as if it were merely another government program appropriation as opposed to compensation for members of a co-equal branch."

The court stopped short of ordering the Legislature to grant a pay raise, or dictating its size or timing. But the decision conveys the court's expectation that the Legislature will resolve the issue, and left open the possibility of more muscular intervention if it does not.

Sheldon Silver, the Assembly speaker, and John Sampson, the Democratic conference leader in the State Senate, have said that judicial salary increases must be deferred indefinitely in light of the state's fiscal crisis. Refusing to grant any increase would be grossly unfair to judges, undermine the quality of the court system, and ignore the ruling by the Court of Appeals.

A sensible resolution would be to raise state judicial pay to the federal level, in stages, perhaps over two years. The Legislature should create a commission, as other states have, to review judicial salaries and decide on future raises. That is a smart move in any budget climate.

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Subjects	Raises, Separation of powers, Judges & magistrates, Wages & salaries, Editorials -- Judges & magistrates
Locations	New York
Title	Justice for Judges: [Editorial]
Publication title	New York Times
Pages	A.20
Publication year	2010
Publication Date	Mar 6, 2010
Year	2010
Column	Editorial
Section	A
Publisher	New York Times Company
Place of Publication	New York, N.Y.
Country of publication	United States

ISSN	03624331
CODEN	NYTIAO
Source type	Newspapers
Language of Publication	English
Document Type	Editorial
ProQuest Document ID	434335416
Document URL	http://0-search.proquest.com.alpha1.suffolk.lib.ny.us/docview/434335416?accountid=35174
Copyright	Copyright New York Times Company Mar 6, 2010
Last Updated	2010-08-15
Database	New York Times

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