Doug Rendleman

Abstract

After examining the significance of the injunction as a crucial remedy to implement and preserve the Warren’s Court’s constitutional legacy, Professor Rendleman’s article turns to the classic prerequisite for an injunction, the irreparable injury rule, and focuses on an altered prerequisite Circuit Judge Tjoflat suggested. The proposed test would limit the availability of an injunction to cases where the judge could enforce it with coercive contempt. The article examines the proposed test in the crucible of contemporary litigation involving unconstitutional establishments of religion with official prayers and other religious observances. After scrutinizing damages and other remedies, the article contends that the proposed test would impede a federal judge’s ability to protect effectively a citizen's rights under the First Amendment's Religion Clause. An injunction, the article concludes, is an indispensable remedy across the constitutional spectrum; if anything, a federal court's ability to grant an injunction should be augmented to assure implementation of the Warren Court's rulings as well as citizens' other rights.