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LISA M. ELLMAN, and ANDRES SAWICKI

Are Judges Political?

An Empirical Analysis
of the Federal Judiciary



Are Judges Political An Empirical Analysis Of The Federal Judiciary

Lee Epstein, Stefanie A. Lindquist



Are Judges Political An Empirical Analysis Of The Federal Judiciary:

Research Handbook on Judicial Politics Michael P. Fix, Matthew D. Montgomery, 2024-09-06 This timely Research Handbook offers a comprehensive examination of judicial politics both in the US and across the globe Taking a broad view of the judiciary in all levels of the court it examines the present state of the field and raises new questions for future scholarly exploration

The Oxford Handbook of Comparative Judicial Behaviour, 2024-10-18 These are momentous times for the comparative analysis of judicial behaviour Once the sole province of U S scholars and mostly political scientists at that now researchers throughout the world drawing on history economics law and psychology are illuminating how and why judges make the choices they do and what effect those choices have on society Bringing together leading scholars in the field The Oxford Handbook of Comparative Judicial Behaviour consists of ten sections each devoted to important subfields fundamentals providing overviews designed to identify common trends in courts worldwide approaches to judging data methods and technologies staffing the courts advocacy litigation and appellate review opinions relations within between and among courts judicial independence court and society and frontiers of comparative judicial behaviour dedicated to expanding on opportunities for advancement Rather than focusing on particular courts countries or regions the organization of the individual chapters is topical Each chapter explores an important topic critically evaluating the state of that topic and identifying opportunities for future work While the forty two chapters share a common interest in explaining the causes and effects of judicial choices the range of approaches to comparative research is wide inclusive and interdisciplinary from contrasts and similarities to sophisticated research agendas reflecting the emerging field of judicial behaviour around the world

Accountability of Judicial Power Piotr Mikuli, 2025-04-29 This book brings together a group of international scholars to discuss theoretical and comparative considerations of judicial accountability Accountability of the judiciary is an essential element in a democratic state ruled by law Its design must take into account the need to ensure both the legitimacy of the judiciary and its independence The work discusses accountability in the light of recent research including studies on the crisis of the rule of law in the contemporary world The book adopts a broad approach to accountability which has various facets referring both to the courts that is the organisational element of the judicial branch of government and to judges its individual dimension It is divided into four parts the first deals with the essence of the concept of accountability of the judiciary the second discusses the emerging standards relating primarily to the individual accountability of judges and the third discusses the position of constitutional judges through the lens of accountability The fourth and final part provides a detailed consideration of the specific accountability mechanisms The book will be a valuable resource for academics researchers and policymakers working in the areas of constitutional law and politics and accountability studies

The Federal Courts Peter Charles Hoffer, William James Hoffer, N. E. H. Hull, 2016 There are moments in American history when all eyes are focused on a federal court when its bench speaks for millions of Americans and when its decision changes the

course of history More often the story of the federal judiciary is simply a tale of hard work of finding order in the chaotic system of state and federal law local custom and contentious lawyering The Federal Courts is a story of all of these courts and the judges and justices who served on them of the case law they made and of the acts of Congress and the administrative organs that shaped the courts But even more importantly this is a story of the courts development and their vital part in America s history Peter Charles Hoffer William James Hull Hoffer and N E H Hull s retelling of that history is framed the three key features that shape the federal courts narrative the separation of powers the federal system in which both the national and state governments are sovereign and the widest circle the democratic republican framework of American self government The federal judiciary is not elective and its principal judges serve during good behavior rather than at the pleasure of Congress the President or the electorate But the independence that lifetime tenure theoretically confers did not and does not isolate the judiciary from political currents partisan quarrels and public opinion Many vital political issues came to the federal courts and the courts decisions in turn shaped American politics The federal courts while the least democratic branch in theory have proved in some ways and at various times to be the most democratic open to ordinary people seeking redress for example Litigation in the federal courts reflects the changing aspirations and values of America s many peoples The Federal Courts is an essential account of the branch that provides what Massachusetts Supreme Judicial Court Judge Oliver Wendell Holmes Jr called a magic mirror wherein we see reflected our own lives

Constitutional Politics in a Conservative Era Austin Sarat, 2008-05-05 Aims to bring together the work of leading scholars of Constitutionalism

Constitutional law and politics in the United States to take stock of the field to chart its progress and point the way for its future development

How Judges Think Richard A. Posner, 2010-05-01 A distinguished and experienced appellate court judge Richard A Posner offers in this new book a unique and to orthodox legal thinkers a startling perspective on how judges and justices decide cases When conventional legal materials enable judges to ascertain the true facts of a case and apply clear pre existing legal rules to them Posner argues they do so straightforwardly that is the domain of legalist reasoning However in non routine cases the conventional materials run out and judges are on their own navigating uncharted seas with equipment consisting of experience emotions and often unconscious beliefs In doing so they take on a legislative role though one that is confined by internal and external constraints such as professional ethics opinions of respected colleagues and limitations imposed by other branches of government on freewheeling judicial discretion Occasional legislators judges are motivated by political considerations in a broad and sometimes a narrow sense of that term In that open area most American judges are legal pragmatists Legal pragmatism is forward looking and policy based It focuses on the consequences of a decision in both the short and the long term rather than on its antecedent logic Legal pragmatism so understood is really just a form of ordinary practical reasoning rather than some special kind of legal reasoning Supreme Court justices are uniquely free from the constraints on ordinary judges and uniquely tempted to engage in legislative forms of adjudication More than

any other court the Supreme Court is best understood as a political court The Politics of Principle Theunis Roux, 2013-03-28 Uses a single country case study to enrich research on the role of constitutional courts in new democracies

The Oxford Handbook of Law and Economics Francesco Parisi, 2017 The Oxford Handbook of Law and Economics applies the theoretical and empirical methods of economics to the study of law Volume 1 surveys methodology and concepts

Judicial Reputation Nuno Garoupa, Tom Ginsburg, 2015-11-20 Judges are society's elders and experts our masters and mediators We depend on them to dispense justice with integrity deliberation and efficiency Yet judges as Alexander Hamilton famously noted lack the power of the purse or the sword They must rely almost entirely on their reputations to secure compliance with their decisions obtain resources and maintain their political influence In *Judicial Reputation* Nuno Garoupa and Tom Ginsburg explain how reputation is not only an essential quality of the judiciary as a whole but also of individual judges Perceptions of judicial systems around the world range from widespread admiration to utter contempt and as judges participate within these institutions some earn respect while others are scorned *Judicial Reputation* explores how judges respond to the reputational incentives provided by the different audiences they interact with lawyers politicians the media and the public itself and how institutional structures mediate these interactions The judicial structure is best understood not through the lens of legal culture or tradition but through the economics of information and reputation Transcending those conventional lenses Garoupa and Ginsburg employ their long standing research on the latter to examine the fascinating effects that governmental interactions multicourt systems extrajudicial work and the international rule of law movement have had on the reputations of judges in this era **Selective Publication in the U. S. Courts of Appeals** Associate Professor

of Political Science Rachael K Hinkle, Rachael K. Hinkle, 2024 For the last fifty years intermediate federal appellate courts have produced published and unpublished opinions at the discretion of the judge ruling on the case When an opinion is labelled as published it is something that all future judges in that jurisdiction must follow but when a ruling is designated as unpublished it only resolves the isolated dispute instead of creating a legal precedent *Selective Publication in the U S Courts of Appeals* compares these two types of opinions to reveal and understand inequalities created by the practice of selective publication Judicial Independence in Transition Anja Seibert-Fohr, 2012-04-25 Strengthening the rule of law has become a

key factor for the transition to democracy and the protection of human rights Though its significance has materialized in international standard setting the question of implementation is largely unexplored This book describes judicial independence as a central aspect of the rule of law in different stages of transition to democracy The collection of state specific studies explores the legal situation of judiciaries in twenty states from North America over Western Central and South Eastern Europe to post Soviet states and engages in a comparative legal analysis Through a detailed account of the current situation it takes stock considers advances in and shortcomings of judicial reform and offers advice for future strategies The book shows that the implementation of judicial independence requires continuous efforts not only in countries

in transition but also in established democracies which are confronted with ever new challenges *Judicial Politics in the United States* Mark C. Miller, 2014-07-15 *Judicial Politics in the United States* examines the role of courts as policymaking institution and their interactions with the other branches of government and other political actors in the American political system helping students understand how and why courts are such important legal and political institutions in the United States Not only does this book cover the nuts and bolts of our judicial system from the functions structures and processes of courts to the details of the legal profession it goes well beyond other judicial process books by examining how the courts interact with executives legislatures and state and federal bureaucracies It also includes a chapter devoted to how the courts interact with interest groups the media and general public opinion and a chapter examining how U S courts and the judges who serve on those courts interact with other judiciaries around the world exposing students to issues beyond our borders *Judicial Politics in the United States* balances coverage on the courts and judicial processes with discussions of broader issues of the courts interactions with our larger political universe and with courts abroad making it the quintessential text for all students of judicial processes and politics **Friends of the Supreme Court: Interest Groups and Judicial Decision Making** Paul M. Collins, Jr., 2008-08-15 The U S Supreme Court is a public policy battleground in which organized interests attempt to etch their economic legal and political preferences into law through the filing of amicus curiae friend of the court briefs In *Friends of the Supreme Court Interest Groups and Judicial Decision Making* Paul M Collins Jr explores how organized interests influence the justices decision making including how the justices vote and whether they choose to author concurrences and dissents Collins presents theories of judicial choice derived from disciplines as diverse as law marketing political science and social psychology This theoretically rich and empirically rigorous treatment of decision making on the nation s highest court which represents the most comprehensive examination ever undertaken of the influence of U S Supreme Court amicus briefs provides clear evidence that interest groups play a significant role in shaping the justices choices **Toward an Informal Account of Legal Interpretation** Allan C. Hutchinson, 2016-10-20 The book challenges all formalist accounts of legal interpretation and offers an informal alternative **EU Law and Economics** Armin Steinbach, 2024-12-17 The intersection between law and economics is a dynamic field of research Yet European law has so far not been the subject of comprehensive systematic economic analysis Instead issues such as the European debt crisis COVID 19 pandemic and the climate emergency have largely escaped scholarly analysis through the nexus of EU law and economics *EU Law and Economics* closes this gap providing an overview of the application of economics to the institutional procedural and substantive aspects of European law Drawing on various branches of the economic sciences including rational choice and game theory and institutional and behavioural economics this book goes beyond conventional methods of EU legal scholarship to expand our understanding of EU law and its effects This book devotes attention to EU Treaties and secondary law as well as their adjudicative interpretation while using economic theory to explain their core legal principles

such as conferral subsidiarity and mutual recognition Systematic and original this book offers additional descriptive and normative metrics that expand our understanding of the decision making behaviour of EU institutions and member states while opening a new dialogue between two distinct disciplines This is an open access title available under the terms of a CC BY NC ND 4 0 International licence It is free to download from OUP and selected open access locations **The**

Development of the American Presidency Richard Ellis, 2022-05-02 A full understanding of the institution of the American presidency requires us to examine how it developed from the founding to the present This developmental lens analyzing how historical turns have shaped the modern institution allows for a richer more nuanced understanding The Development of the American Presidency pays great attention to that historical weight but is organized by the topics and concepts relevant to political science with the constitutional origins and political development of the presidency its central focus Through comprehensive and in depth coverage Richard J Ellis looks at how the presidency has evolved in relation to the public to Congress to the executive branch and to the law showing at every step how different aspects of the presidency have followed distinct trajectories of change Each chapter promotes active learning beginning with a narrative account of some illustrative puzzle that brings to life a central concept A wealth of photos figures and tables allow for the visual presentations of concepts New to the Fourth Edition Explicit and expanded attention to the role of norms in shaping and constraining presidential power with special focus on Trump s norm breaking and Biden s efforts to shore up norms Enhanced focus on the prospects for institutional reform including in the electoral college presidential relations with Congress war powers and the selection of Supreme Court justices A full reckoning with the Trump presidency and its significance for the future of American democracy presidential rhetoric the unilateral executive and the administrative state Coverage of the first year of Biden s presidency including presidential rhetoric relations with Congress and the bureaucracy use of the war powers and unilateral directives Comprehensive updating of debates about the removal power including the Supreme Court cases of *Seila Law v CFPB* and *Collins v Yellen* In depth exploration of the impact of partisan polarization on the legislative presidency and effective governance Analysis of the 2020 election and its aftermath Expanded discussion of impeachment to incorporate Trump s two impeachments Examination of presidential emergency powers with special attention to Trump s border wall declaration Review of Biden s and Trump s impact on the judiciary Assessment of Biden s and Trump s place in political time

The Oxford Handbook of U.S. Judicial Behavior Lee Epstein, Stefanie A. Lindquist, 2017 The Oxford Handbook of U S Judicial Behavior offers readers a comprehensive introduction and analysis of research regarding decision making by judges serving on federal and state courts in the U S Featuring contributions from leading scholars in the field the Handbook describes and explains how the courts political and social context formal institutional structures and informal norms affect judicial decision making The Handbook also explores the impact of judges personal attributes and preferences as well as prevailing legal doctrine influence and shape case outcomes in state and federal courts The volume also proposes avenues for

future research in the various topics addressed throughout the book Consultant Editor for The Oxford Handbooks of American Politics George C Edwards III *The Politics of Judicial Independence* Bruce Peabody, 2011 2011 Winner of the Selection for Professional Reading List of the U S Marine Corps The judiciary in the United States has been subject in recent years to increasingly vocal aggressive criticism by media members activists and public officials at the federal state and local level This collection probes whether these attacks as well as proposals for reform represent threats to judicial independence or the normal even healthy operation of our political system In addressing this central question the volume integrates new scholarship current events and the perennial concerns of political science and law The contributors policy experts established and emerging scholars and attorneys provide varied scholarly viewpoints and assess the issue of judicial independence from the diverging perspectives of Congress the presidency and public opinion Through a diverse range of methodologies the chapters explore the interactions and tensions among these three interests and the courts and discuss how these conflicts are expressed and competing interests accommodated In doing so they ponder whether the U S courts are indeed experiencing anything new and whether anti judicial rhetoric affords fresh insights Case studies from Israel the United Kingdom and Australia provide a comparative view of judicial controversy in other democratic nations A unique assessment of the rise of criticism aimed at the judiciary in the United States *The Politics of Judicial Independence* is a well organized and engagingly written text designed especially for students Instructors of judicial process and judicial policymaking will find the book along with the materials and resources on its accompanying website readily adaptable for classroom use **The Elevator Effect** Morgan L. W. Hazelton, Rachael K. Hinkle, Michael J. Nelson, 2023 Notes bibliogr bibliogr p 251 271 index *Supermajority Voting in Constitutional Courts* Cristóbal Caviades, 2024-08-02 This book challenges the wide use of majority rule in many constitutional courts for declaring statutes unconstitutional and argues that these courts should rather perform constitutional review by using supermajority rules Considering that constitutional courts often tackle hard moral issues it is questionable whether a bare majority of judges should suffice for settling them especially considering these courts counter majoritarian nature Further the wide use of majority rule for checking the constitutionality of legislation may increasingly risk their reputation Such a concern is developing in the United States following a series of Supreme Court decisions This book argues that majority rule is unjustified in constitutional review This means that in constitutional review considering majority rule s traits there are no decisive reasons for using this voting rule over other voting rules Additionally the book argues that when checking the constitutionality of legislation constitutional courts should replace majority rule with supermajority rules Thus for declaring statutes unconstitutional it is argued that more than 50% of the judges present plus one judge present should be needed This book will be of interest to academics researchers and policy makers working in the areas of Constitutional Law and Politics

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