

The
Global
Expansion
of
Judicial
Power

Edited by
C. Neal Tate & Torbjörn Vallinder

Global Expansion Of Judicial Power

Moeen Cheema



Global Expansion Of Judicial Power:

The Global Expansion of Judicial Power C Neal Tate, Torbjorn Vallinder, 1995 In Russia as the confrontation over the constitutional distribution of authority raged Boris Yeltsin's economic program regularly wended its way in and out of the Constitutional Court until Yeltsin finally suspended that court in the aftermath of his clash with the hard line parliament In Europe French and German legislators and executives now routinely alter desired policies in response to or in anticipation of the pronouncements of constitutional courts In Latin America and Africa courts are or will be important participants in ongoing efforts to establish constitutional rules and policies protect new or fragile democracies from the threats of military intervention ethnic conflict and revolution This global expansion of judicial power or judicialization of politics is accompanied by an increasing domination of negotiating or decision making arenas by quasi judicial procedures For better or for worse the judicialization of politics has become one of the most significant trends of the end of the millenium In this book political scientists legal scholars and judges around the world trace the intellectual origins of this trend describe its occurrence or lack of occurrence in specific nations analyze the circumstances and conditions that promote or retard judicialization and evaluate the phenomenon from a variety of intellectual and ideological perspectives

Courts and Social Transformation in New Democracies Roberto Gargarella, Pilar Domingo, Theunis Roux, 2006 This volume examines the role of courts as a channel for social transformation for excluded sectors of society in contemporary democracies with a focus on social rights litigation in post authoritarian regimes or contexts of fragile state presence

The Judge in a Democracy Aharon Barak, 2009-01-10 Whether examining election outcomes the legal status of terrorism suspects or if or how people can be sentenced to death a judge in a modern democracy assumes a role that raises some of the most contentious political issues of our day But do judges even have a role beyond deciding the disputes before them under law What are the criteria for judging the justices who write opinions for the United States Supreme Court or constitutional courts in other democracies These are the questions that one of the world's foremost judges and legal theorists Aharon Barak poses in this book In fluent prose Barak sets forth a powerful vision of the role of the judge He argues that this role comprises two central elements beyond dispute resolution bridging the gap between the law and society and protecting the constitution and democracy The former involves balancing the need to adapt the law to social change against the need for stability the latter judges ultimate accountability not to public opinion or to politicians but to the internal morality of democracy Barak's vigorous support of purposive interpretation interpreting legal texts for example statutes and constitutions in light of their purpose contrasts sharply with the influential originalism advocated by U S Supreme Court Justice Antonin Scalia As he explores these questions Barak also traces how supreme courts in major democracies have evolved since World War II and he guides us through many of his own decisions to show how he has tried to put these principles into action even under the burden of judging on terrorism

Judicial Power and Strategic Communication in Mexico Jeffrey K. Staton, 2010-03-22 Although they are not directly

accountable to voters constitutional court judges communicate with the general public through the media In *Judicial Power and Strategic Communication in Mexico* Jeffrey K Staton argues that constitutional courts develop public relations strategies in order to increase the transparency of judicial behavior and promote judicial legitimacy Yet in some political contexts there can be a tension between transparency and legitimacy and for this reason courts cannot necessarily advance both conditions simultaneously The argument is tested via an analysis of the Mexican Supreme Court during Mexico's recent transition to democracy and also through a cross national analysis of public perceptions of judicial legitimacy The results demonstrate that judges can be active participants in the construction of their own power More broadly the study develops a positive political theory of institutions which highlights the connections between democratization and the rule of law *The SAGE Handbook of European Studies* Chris Rumford, 2009-06-18 This volume brings together some of the biggest names in European Studies to analyse the most important trajectories of Europe's development and the challenges faced by the continent today No one interested in Europe will be able to ignore this extraordinary collection of scholarship Professor Thomas Diez University of Birmingham In its range and comprehensiveness it will be hard to beat and it will certainly become an invaluable resource for sociologists political scientists historians and all others seeking the best information and most up to the date approaches to the study of Europe today Professor Krishan Kumar University of Virginia An impressive account of the state of the art of the study of contemporary Europe This is an outstanding work and a definite companion to all those interested in contemporary Europe *Journal of Contemporary European Studies* Europe is one of the world's oldest civilizations But what does it mean to be European today What place does Europe have in global affairs How should we analyze its key institutions system of governance and broader cultural social and political dynamics This exhaustive and timely handbook Explores the transformations that characterize contemporary Europe Investigates how we can best study Europe Consolidates European studies and provides a platform for future study Increases the profile of European studies The Handbook promotes the increasing diversity of perspectives employed in the study of contemporary Europe and EU integration and is situated within the context of Europe's transformations It offers balanced coverage of political social economic cultural and institutional dimensions of Europe and includes chapters by leading authorities including Ulrich Beck Craig Calhoun Donatella della Porta Claus Offe Anssi Paasi Ben Rosamond Gurminder Bhambra and Charles Tilly Multidisciplinary in organization inclusive in coverage and cutting edge in scope *The SAGE Handbook of European Studies* is a landmark resource for anyone interested in Europe **The Legal Culture of the European Court of Human Rights** Nina-Louisa Arold, 2007 Without understanding the legal culture of the judges a full understanding of Strasbourg's rulings seems hardly possible Through interviews field observations and case law analysis this book fills this need and offers a fresh approach towards convergence in Europe **International Law of Human Rights** Michael K. Addo, 2017-07-05 International law is a social construct crafted by human endeavour to achieve or at least contribute to the achievement of

goals perceived to be valuable or necessary to effective social relations In effect international law is no more than a facilitative process and so cannot have answers and conclusions of its own other than what lies within the ambitions of those who define the limits of the process The essays collected together here reveal how international law facilitates the achievement of the long standing ambition of turning human rights ideals and rhetoric into reality *Judicial Activism* Luís Pereira Coutinho, Massimo La Torre, Steven D. Smith, 2015-05-26 This volume offers different perspectives on judicial practice in the European and American contexts both arguably characterized in the last decades by the emergence of novel normative and even policy arguments by judges The central question deserving the attention of the contributors concerns the degree in which judicial exercises in practical reasoning may amount to forms of judicial usurpation of the legislative function by courts Since different views as to the nature and scope of legal reasoning lead to different degrees of tolerance regarding what should be admissible to courts that same nature and scope is thoroughly debated The main disciplinary approach is that of general jurisprudence but the contributions take stock of other disciplines in which judicial activism has been addressed namely positive theories of judicial behavior Accordingly the book also explores the development of interdisciplinary dialogue about the theme **Independence and Accountability of the Higher Indian Judiciary** Arghya Sengupta, 2019-05-23 The Supreme Court of India is a powerful institution at the forefront of public attention in India It is often engaged in a bitter duel with the government on issues as diverse as the administration of cricket in India to whether liquor shops are allowed on highways Despite such public prominence very little attention has been paid to who the judges of the Supreme Court are how they are appointed transferred and removed and what they do after retirement This book provides an account of these four facets of judicial functioning and analyses the processes in operation today It argues that each of these four aspects gives rise to significant concerns pertaining to judicial independence accountability or both Its main argument is that both judicial independence and accountability are necessary for an effective judiciary and these two values are not in conflict with each other as is commonly assumed **Empirical Legal Analysis** Yun-chien Chang, 2013-12-17 This innovative volume explores empirical legal issues around the world While legal studies have traditionally been worked on and of letters and with a normative bent in recent years quantitative methods have gained traction by offering a brand new perspective of understanding law That is legal scholars have started to crunch numbers not letters to tease out the effects of law on the regulated industries citizens or judges in reality In this edited book authors from leading institutions in the U S Europe and Asia investigate legal issues in South Africa Argentina the U S Israel Taiwan and other countries Using original data in a variety of statistical tools from the most basic chi square analysis to sophisticated two stage least square regression models contributors to this book look into the judicial behaviours in Taiwan and Israel the determinants of constitutional judicial systems in 100 countries and the effect of appellate court decisions on media competition In addition this book breaks new ground in informing important policy debates Specifically how long should we incarcerate criminals Should the medical

malpractice liability system be reformed Do police reduce crime Why is South Africa s democratic transition viable With solid data as evidence this volume sheds new light on these issues from a road more and more frequently taken what is known as empirical legal studies analysis This book should be useful to students practitioners and professors of law economics and public policy in many countries who seek to understand their legal system from a different and arguably more scientific perspective **Research Handbook on Modern Legal Realism** Shauhin Talesh,Elizabeth Mertz,Heinz Klug,2021-03-26

This insightful Research Handbook provides a definitive overview of the New Legal Realism NLR movement reaching beyond historical and national boundaries to form new conversations Drawing on deep roots within the law and society tradition it demonstrates the powerful virtues of new legal realist research and its attention to the challenges of translation between social science and law It explores an impressive range of contemporary issues including immigration policing globalization legal education and access to justice concluding with an examination of how different social science disciplines intersect with NLR **Fighting for Political Freedom** Terence C. Halliday,Lucien Karpik,Malcolm Feeley,2007-12-20 Across the

world political liberalism is being fought for consolidated and defended That is the case for nations that have never enjoyed a liberal political society for nations that have advanced towards and then retreated from political liberalism for nations that have recently shifted from authoritarian to liberal political systems and for mature democracies facing terrorism and domestic conflict This book tests for the contemporary world the proposition that lawyers are active agents in the construction of liberal political regimes It examines the efficacy of a framework that postulates that legal professions not only orient themselves to a market for their services but can frequently be seen in the forefront of actors seeking to institutionalise political liberalism On the basis of some 16 case studies from across the world the authors present a theoretical link between lawyers and political liberalism having wide ranging application over radically diverse situations in Asia and the Middle East North and South America and Europe They argue that it is not the politics of lawyers alone but the politics of a legal complex of legally trained occupations centred on lawyers and judges that drives advances or retreats from political liberalism that political liberalism itself is everywhere in play in countries with established democracies and those without liberal politics and that it is now clear that the legal arena is a central field of struggle over the shape of political power The case studies presented here provide powerful evidence that the nexus of bar and bench in transitions towards or away from political liberalism is a force which has universal application In the Name of Justice Weifang He,2012-11-05 Of

all the issues presented by China s ongoing economic and sociopolitical transformation none may ultimately prove as consequential as the development of the Chinese legal system Even as public demand for the rule of law grows the Chinese Communist Party still interferes in legal affairs and continues in its harsh treatment of human rights lawyers and activists Both the frequent occurrences of social unrest in recent years and the growing tension between China s various interest groups underline the urgency of developing a sound and sustainable legal system As one of China s most influential law

professors He Weifang has been at the forefront of the country's treacherous path toward justice and judicial independence for over a decade. Among his many remarkable endeavors was a successful petition in 2003 that abolished China's controversial regulations permitting the internment and deportation of urban vagrants, bringing to an end two decades of legal discrimination against migrant workers. His bold remarks at the famous New Western Hills Symposium in 2006, including his assertion that China's party-state structure violates the PRC Constitution, are considered a watershed moment in the century-long movement for a constitutional China. With *In the Name of Justice*, He presents his critical assessment of the state of Chinese legal reform. In addition to a selection of his academic writings, this unique book also includes many of He Weifang's public speeches, media interviews, and open letters providing additional insight into his dual roles as thinker and practitioner in the Chinese legal world. Among the topics covered are judicial independence, judicial review, legal education, capital punishment, and the legal protection of free speech and human rights. The volume also offers a historical review of the evolution of Chinese traditional legal thought, enhanced by cross-country comparisons. A proponent of reform rather than revolution, He believes only true constitutionalism can guarantee social justice and enduring stability for China. He Weifang has argued for two decades that rule of law, however inconvenient at times to some of those who govern, must be embraced because it is ultimately the most reliable protector of the interests of the country and the average citizen, and in fact, even of those who govern. Foreword by John L. Thornton, chairman, Brookings Institution Board of Trustees and Professor and Director of Global Leadership at Tsinghua University. What struck me and shocked me as a foreign visitor was not only that the entire discussion was explicitly critical of the Chinese Communist Party for its resistance to any meaningful judicial reform, but also that the atmosphere was calm, reasonable, and marked by a sense of humor and sophistication in the expression of ideas. Introduction by Cheng Li, director of research and senior fellow at the John L. Thornton China Center at Brookings. Copyright and Popular Media T. Cvetkovski, 2013-03-21. Copyright governance is in a state of flux because the boundaries between legal and illegal consumption have blurred. Trajce Cvetkovski interrogates the disorganizational effects of piracy and emerging technologies on the political economy of copyright in popular music, film, and gaming industries. **Expedited International Arbitration** Alan Anderson, Herman Verbist, 2024-06-11. Increasingly, international commercial arbitration has come to resemble the judicial process it was intended to replace, especially in terms of speed, costs, and efficiency. Arbitration institutions worldwide have adopted rules or procedures to expedite the arbitral process to address these concerns. This book brings together thirty-one distinguished practitioners, academics, and experts in the field from around the world to consider, in nineteen chapters, how these policies and procedures, including the 2021 UNCITRAL Expedited Arbitration Rules, operate and affect international commercial arbitration, investor-state arbitration, and mediation. This book presents diverse and rich perspectives on the variety of methods adopted to provide an expeditious and cost-effective means for dispute resolution while recognizing the due process risks involved. Its comprehensive analysis of the

case for expedited arbitration and the principles underpinning it covers such aspects as expedited arbitration rules adopted by major arbitration institutions expedited arbitration rules in the ad hoc non institutional context including the UNCITRAL Expedited Arbitration Rules and UNCITRAL model clauses expedited arbitration rules in various geographic regions including China Southeast Asia the Caribbean and the Middle East focusing on specific jurisdictions in each region new ICSID rules on mediation of investor State disputes and expedited arbitration mediation Arb Med in the Far East focusing on Macau Arbitrators and parties to international agreements will gain a greater understanding of the issues options and consequences that may result from expedited arbitration Practitioners will benefit from guidance in drafting arbitration clauses and in weighing the advantages and disadvantages of expedited arbitration procedures in various jurisdictions The insights in this book will benefit international commercial arbitration as its stakeholders seek to return international commercial arbitration to its foundational underpinnings a prompt efficacious and cost effective means of resolving commercial disputes

Law, Ideology, and Collegiality Donald R. Songer, Susan Johnson, C.L. Ostberg, 2012-04-11 The authors use confidential interviews with Supreme Court justices analysis of their rulings from 1970 to 2005 and measures that tap their perceived ideological tendencies to provide a critical examination of the ideological roots of judicial decision making uncovering the complexity of contemporary judicial behaviour Examining judicial behaviour through the lens of three different research strategies grounded in qualitative and quantitative methodologies Law Ideology and Collegiality presents compelling evidence that political ideology is a key factor in decision making and a prominent source of conflict in the Supreme Court of Canada

Judges and the Language of Law Matthew Williams, 2022-01-17 This book looks at how the language of the law has changed over time and how this has empowered judges In particular it looks at how this has empowered judges to rule against governments

Courting Constitutionalism Moeen Cheema, 2021-12-16 Over the last decade the Supreme Court of Pakistan has emerged as a powerful and overtly political institution While the strong form of judicial review adopted by the Supreme Court has fostered the perception of a sudden and ahistorical judicialisation of politics the judiciary's prominent role in adjudicating issues of governance and statecraft was long in the making This book presents a deeply contextualised account of law in Pakistan and situates the judicial review jurisprudence of the superior courts in the context of historical developments in constitutional politics evolution of state structures and broader social transformations This book highlights that the bedrock of judicial review has remained in administrative law it is through the consistent development of the Writ jurisdiction and the judicial review of administrative action that Pakistan's superior courts have progressively carved an expansive institutional role and aggrandised themselves to the status of the regulator of the state

Constituting Scotland W. Elliot Bulmer, 2016-07-08 Before the independence referendum in 2014 the First Minister of Scotland Alex Salmond promised a written constitution for Scotland in the event of a Yes vote The UK is almost unique in having never adopted a written constitution or other fundamental law Why did this commitment arise in Scotland

Democratic and Authoritarian Political Systems in 21st Century World Society Anna L. Ahlers, Damien

Krichewsky, Evelyn Moser, Rudolf Stichweh, 2021-03-05 This book is about the radical novelty of modern polities in a functionally differentiated world society Premodern states were at the apex of a stratified hierarchical society They dominated society and all its groups and strata Modern polities have to be understood through the ecology of relations among different function systems They have to find and incessantly redefine their place in society They produce decisions that are collectively binding but in preparing these decisions experience constraints and knowledge deficiencies that are related to the complexity of a functionally differentiated society The book concentrates on six analytical perspectives that reflect how modern polities are embedded into 21st century society These perspectives are the concept of inclusion and the inclusion revolution constitutive of modern polities the internal differentiation of polities that endows them with an unprecedented complexity the fact that polities do not know anything about society and the ways in which they compensate for this representation and responsiveness as strategies to reconnect with society the self restriction of some polities that brings about ever new autonomous expert organizations the symmetrical rise of autocracies and democracies as the two modern variants of political regimes

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