SAGE books

Judicial Independence at the Crossroads: An Interdisciplinary Approach

Judicial Independence: How Can You Tell It When You See It? And, Who Cares?

Judicial Independence: How Can You Tell It When You See It? And, Who Cares?

Charles M.Cameron

Introduction

Throughout this volume, two clusters of questions arise repeatedly:

1. Is "judicial independence" such an ambiguous, amorphous, or confused concept that it is useless analytically? Or does it actually mean something? If so, what?
2. If "judicial independence" refers to something real, is it actually good for anything? As Lewis Kornhauser stresses in his contribution to this volume, judicial independence is not an end in itself. It is purely instrumental, a *means* to an end. But, what end or ends? And, how well does judicial independence serve those ends?

In this brief chapter, I sketch some answers to these questions, in enough detail (I hope) to suggest that judicial independence is more than a slogan and worth study.

To answer the first question, I draw on a long and well-developed tradition of power analysis in political science. From a power perspective, judicial independence is synonymous with judicial autonomy, and autonomy can be defined fairly precisely. In principle, we can measure autonomy, empirically and, in fact, some scholars have tried to do so, at least in a few special contexts. Given measurement of judicial independence between countries or states, or over time within one jurisdiction, one could ask what factors lead to greater or lesser independence. In other words, judicial independence, defined this way, becomes a respectable "dependent variable" that we can study.

To answer the second question, I draw on modern political economy. The work I invoke links economic growth to efficient property rights and credible contracting, devices that facilitate economic exchange and economic growth. I outline an argument—not terribly original—why well-functioning courts might support economic growth. I review some empirical studies that try to assess the evidence on this score as well as other studies that examine links between human rights and judicial systems. We don't have as much evidence as we want, but even so it appears that in some cases judicial independence matters.

A Power Analysis of Judicial Independence

What do we mean by an independent judiciary? There is a somewhat tendentious literature on this question, but a straightforward answer flows from the political scientific analysis of power (Dahl, 1963; Nagel, 1975). In this line of analysis, power is defined as a *causal relationship between preferences and outcomes.*[1] In other words, an actor has power when a particular outcome is desired and causes that outcome to transpire. By extension, an actor (like a judge) has independence or autonomy when he or she consistently has power over the relevant outcome (Nordlinger, 1981).

A (reasonably) simple example may make this type of analysis much clearer. Consider [Figure 6.1](#). In the figure, there are three actors: A, B, and a judge, J. Actor A might be, say, an interest group and Actor B might be a wealthy individual. Or, A might be the median floor member of the House of Representatives and B might be the president. In any event, each

actor, including the judge, has preferences about an outcome.[2] In this example, the outcome can be either (and only) Outcome 1 or Outcome 2. The arrows indicate potential causal relationships. For example, path AO indicates direct power of A over the outcome. Path AJ indicates that A might cause J's preferences, which in turn affect the outcome via path JO. Now suppose we observe preferences and outcomes according to Table 6.1.

TABLE 6.1 An Example of Power Analysis

Observation	A wants —	B wants —	J wants —	Outcome
1.	1	1	1	1
2.	1	2	1	1
3.	2	1	2	2
4.	1	2	2	2

Figure 6.1
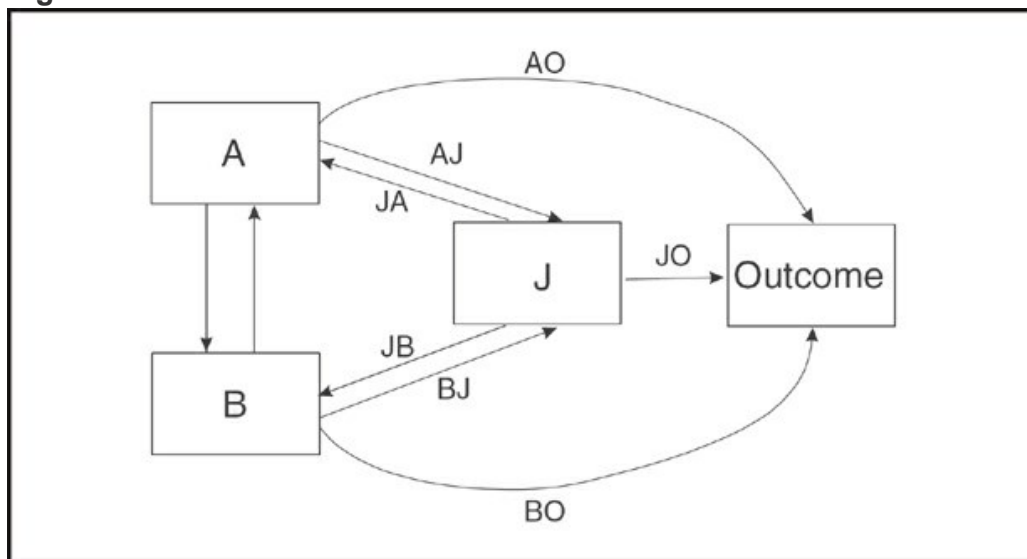
Suppose we have seen only Observation 1—what can we infer? Very little. The problem is what statisticians call "multicollinearity"—too much intercorrelation between the preferences of A, B, and J to disentangle their separate influences. But now suppose we obtain Observation 2. In this case, actors A and J desire Outcome 1 whereas B desires Outcome 2; Outcome 1 prevails. In this case, it is clear that Actor B did not have power. However, the evidence is equally compatible with several other inferences, as shown in Figure 6.2. For example, A's preferences may have driven the outcome directly; J's preference may have driven the outcome; A's preferences may have determined J's preferences, which then determined the outcome; or, J's preferences may have determined A's preferences, which then caused the outcome.

Figure 6.2
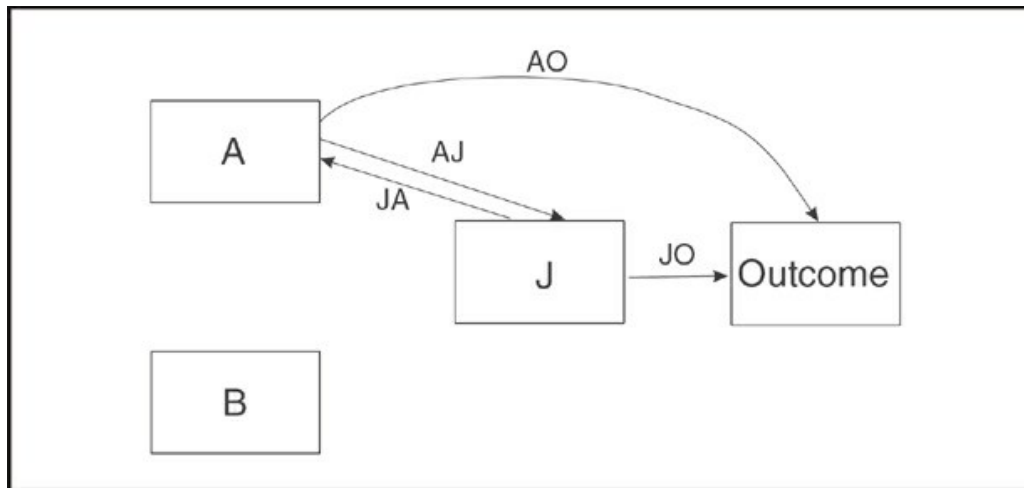
Suppose we then see Observation 3. But Observation 3 (as constructed) is really the same as Observation 2 and thus does not eliminate further paths of influence. However, Observation 4 is much more helpful. In this observation, the Actor A's preferences diverge from the Judge's and the outcome follows the Judge's preferences. Taken in tandem with Observation 2 (or 3), Observation 4 leaves only one path of influence, that from the Judge (alone) to the outcome. If additional observations consistently confirm this inference, we can conclude that J has power over the outcome—and the judge acts autonomously and hence independently.

Pure autonomy is, of course, an extreme case. But even with only Observation 2 at our disposal, we might conclude that the judge acts independently of Actor B. This approach defines independence in an actor-specific way: Judicial independence is defined relative to the executive, the legislature, interest groups, firms, wealthy individuals, or other actors and not in absolute terms.

This example illustrates the basic ideas but real implementation is often more subtle. In practice, the analysis turns on comparative static tests, albeit of a particularly simple form: Vary Actor A's preferences while holding others constant and see if outcomes vary in a similar fashion (Calvert, Moran, & Weingast, 1987). If not, Actor A has no power over the outcome.[3] But if preferences and outcomes covary systematically and there is a theoretical reason to believe the covariation is causal in nature, then we should conclude (tentatively, at any rate) that A does have power. Measurement difficulties and statistical problems, such as inadequate independent variation in the preferences of different actors, often make it difficult to execute the comparative static test in practice. But this approach puts the study of judicial independence on a firm conceptual footing.

As a concrete example, consider the well-known Ferejohn-Shipan model of courts in the American separation of powers system (Ferejohn & Shipan, 1990). This game theoretic model makes clear predictions about the relationship between policy outcomes and the preferences of specific actors, such as judges and congressional committee chairs. In other words, the model makes predictions about who should have power and when. It also makes clear predictions about the relationship between judicial outcomes and the preferences of nonjudicial actors. Thus, it makes predictions about judicial independence relative to specific actors. A cottage industry has sprung up in which scholars attempt to empirically execute the key comparative static tests and determine whether the model's predictions are actually borne out (see, e.g., Spiller & Gely 1992; Segal, 1998). Another example from judicial politics is offered by Moraski and Shipan's excellent paper on Supreme Court nominations, which uses

a power analysis to study who has influence in determining the ideology of nominees, the president or the Senate (Moraski & Shipan, 1992). In short, power analysis is practical though often difficult and data intensive.

Structural Protections versus Norms

A power analysis separates the operational fact of independence (or the lack thereof) from structural features of a judicial system such as life tenure and protected salaries. Thus, one can meaningfully examine the relationship between the latter and the former. For example, Salzberger and Fenn (1999) show that judges on the English Court of Appeals who consistently take antigovernment positions are less likely to be promoted to the Judicial Committee of the House of Lords, the highest judicial venue in England, than lord justices of appeal who are less anti-government. Similarly, Ramseyer (1994) and Ramseyer and Rasmusen (1997) show that antigovernment judges in Japan suffer less successful and less pleasant careers than do progovernment judges. The resulting incentive systems no doubt discourage antigovernment behavior by judges—which is to say, they diminish judicial independence from the government. But, this fact needs to be established empirically rather than assumed by *defining* judicial independence in terms of structural features like life tenure or protected salaries.

Moreover, one can imagine relatively independent judiciaries even in the absence of extensive structural protections. For example, within certain limits, legislatures or executives may afford a degree of independence to a judiciary that is "trustworthy." This argument follows straightforwardly from the standard logic of delegation in political settings (Epstein & O'Halloran, 1999). Here, the basic idea is that Congress will not find it worthwhile to exercise close control over an ideologically proximate judiciary because such judges will not take actions too disparate from congressional wishes even absent close control.

An important part of the logic of delegation is that Congress will not grant much independence to an ideologically distant judiciary. Somewhat piquantly, then, the judiciary can have independence but only so long as it won't use it to the disadvantage of Congress— or, at least, a Congress capable of defending its interests.

Extending this principal-agent logic, Ferejohn (1999) suggests that the greatest danger to the independence of the American judiciary occurs when Congress and the president are ideologically unified and the judiciary is comprised of judges with a different ideology. Under these conditions, the president and Congress will be willing and able to rein in an assertive judiciary. Surveys of the historical evidence support this view (Nagel, 1965; Rosenberg, 1992) as do case studies of specific episodes (Murphy, 1962; Pritchett, 1961). A more systematic quantitative analysis would be welcome but DeFigueiredo and Tiller (1996) is suggestive. In this study, the authors show that unified-party Congresses that follow other-party Congresses or divided-party Congresses have repeatedly expanded the size of the federal judiciary. These expansions allow the incoming unified-party Congresses to "repack" the judiciary with copartisans, thereby bringing the judiciary into closer ideological alignment with Congress.

A quite distinct line of reasoning also suggests that judicial independence can exist absent structural protections. According to this view, a folk-theorem-friendly environment can yield a set of cultural norms that support the rule of law. This logic is explored in a recent paper by Weingast (1997).[4] But the same idea, without the game theoretic trappings, is standard in the literature on the English constitutional system (Dicey, 1915). Many commentators also invoke this line of reasoning to explain the failure of FDR's court-packing scheme and Truman's

acquiescence in the steel seizure case.

Conversely, explicit structural protections may prove to be but parchment barriers to an aggressive executive or legislature unconstrained by voters who value judicial independence. The sad experience of the Argentinean judiciary demonstrates this fact very clearly (Helmke, 1999; Spiller & Tomasi, in press). There, strong executives have fired high court justicesat will, despite legal prohibitions to the contrary.

The Argentina example suggests that nominal protections like "life tenure" probably require backing by a political norm, in which other actors—especially voters—punish an executive who tramples on the judiciary's formal protections. Absent such a norm, an executive who comes into conflict with the judiciary is apt to "mug" the judiciary regardless of constitutional or statutory protections. The real value of explicit structural features like salary protection and "life tenure under good behavior" is that they establish bright lines for determining when the executive or legislature violates a societal or political convention supporting judicial independence. Kaushik Basu (1997) applies this logic to laws in general; Russell Hardin (1989) analyzes constitutions from the same perspective.

This norm- or convention-based line of reasoning soon leads to questions about the emergence, maintenance, and breakdown of social norms and conventions. This topic has proved fascinating to proponents of the "new Chicago school" of law and economics. But to my taste, the ratio of insight-to-ink-spilled is distressingly low. This is not so much a criticism of the "new Chicago" scholars as an unavoidable reality imposed by fundamental limits in the current social scientific understanding of conventions. Recent advances in evolutionary game theory seem to hold some promise for improving our understanding of the emergence and breakdown of norms and social conventions (see, e.g., Young, 1998). But it is apt to be some time before this very abstract material proves useful in understanding highly applied phenomena, like judicial independence—though I would love to proven wrong about this.

Let me summarize so that I can move on. At least within a power analysis, the idea of judicial independence is meaningful. Within this framework, current studies suggest that formal, structural protections are neither necessary nor sufficient to ensure judicial independence. Probably more critical is a basic congruence between the values of judges and other powerful political actors. Still, it would be surprising if there were *no* relationship between formal protections and actual judicial independence because formal protections are so useful in sustaining social conventions by providing "bright line" demarcations. From one perspective, it is ultimately those conventions, rather than the formal protections per se, that are the foundation for judicial independence. Unfortunately, our ability to investigate the emergence, maintenance, and breakdown of social conventions protecting judicial independence is severely limited by our sketchy understanding of the basic social mechanisms at work. And this is not apt to change soon.

Theory: Judicial Independence and Liberal Democracy

Why should limiting the power of the executive, legislature, and politically powerful actors over judicial decisions facilitate economic growth, the preservation of human rights, and the maintenance of democracy?

One answer might be that judges themselves value economic growth, human rights, and democracy and act positively to support them. Limiting the power of the executive, legislature, and plutocrats over judicial outcomes thus allows benevolent judges to advance good ends

without unwholesome interference from potentially predatory actors. Call this the "strong view" of judicial independence. The Fuller Court might stand as the poster child for the strong view, particularly the 1895 term in which the Court struck down the income tax and other progressive reforms that majorities on that Court believed were assaults on a well-ordered economy.

In a series of interesting papers, David Scott Yamanishi (1999, 2000a, 2000b) mounts a sharp attack on the strong view of judicial independence. His argument is worth reproducing at length.

> If we accept that people hold a variety of beliefs across countries and cultures about such matters [as the protection of property rights], and we accept that judicial selection processes don't *necessarily* favor candidates in the former category, then it seems that there's nothing in the very nature of being a judge that compels judges to favor strictly individualistic and capitalistic property rights. … If independent judges are more free to exercise their preferences, and if there's no reason to believe that judges will hold any particular economic belief, it's evident that judicial independence is not a precondition of the protection of property rights for investors. (2000a, pp. 4-5)

His argument extends easily to the protection of human rights and democracy.[5] This attack on the strong view seems hard to rebut—but there is a weak argument for judicial independence that Yamanishi tends to underplay. This argument has two parts. First, within a liberal democratic order, a well-functioning set of courts is apt to enhance economic growth and civil liberties. The argument invokes advantages from the division of labor: Courts are good devices for settling economic disputes and enforcing contracts and protecting citizens from mild encroachments by errant policemen and bullying bureaucrats. And, *within* a liberal democratic order, courts *are* apt to be staffed with people who have the right values—they will want to do the right thing.

Second, within a liberal democratic order, a degree of judicial independence is apt to confer some dynamic stability to the system. This argument is essentially the familiar checks-and-balances view. Random perturbations may yield a bad executive or legislature (or for that matter, judiciary). But cross-checking vetoes from the other branches will allow the system to weather the bad draw. There are severe limits to the argument: The judiciary will not have much restraining power in the face of a military coup and it's silly to hope otherwise. But a somewhat independent judiciary may temporarily check a merely overweening executive or legislature and this temporary check will often prove sufficient to gain the day.

Judicial Independence and Economic Growth

A recent study of Russia provides some support for the weak argument for judicial independence. Frye and Zhuravskaya (2001) study the operation of small shops in Moscow, Ulyanovsk, and Smolensk. In 1996, Ulyanovsk had seen little economic reform and Communist party figures retained political power. In contrast, Smolensk had seen extensive economic reform and considerable turnover in government personnel. Moscow was intermediate between these two extremes. Shopkeepers in Ulyanovsk faced an intense regulatory burden (as measured by the length of time needed to open a shop, the number of permits needed, the number of inspections, and so on), those in Smolensk a much lighter burden, and those in Moscow an intermediate burden.

Frye and Zhuravskaya investigate the propensity of shop owners to contact the "racket" to obtain private protection services and the likelihood shopkeepers would use legal services in the face of a perceived need. They show that the likelihood of contacting the racket was directly related to regulatory burden. And the likelihood of using the courts was directly related to their perceived efficacy in protecting the shopkeepers' rights against the government and against other businessmen. Finally, they show a negative relationship between regulatory burden and perceived court efficacy.

Frye and Zhuravskaya make sense of these findings in the following way: Differences in the level of regulation should produce two stable equilibria. In one equilibrium, the local government levies comparatively low levels of regulation and provides comparatively competent and accessible legal institutions. These policies encourage shopkeepers to operate in the official economy, rely on the state to enforce property rights, and shun private protection organizations. In the other equilibrium, the local government levies extensive regulation and provides weak legal institutions. This mix of state policies compels shopkeepers to operate in the unofficial economy and turn to a private protection racket to enforce their unofficial economic activity.

Finally, the authors suggest that these alternative political arrangements have consequences for economic activity. The low-burden/efficacious court environment in Smolensk was associated with greater employment in the small business sector than in the high-burden/inefficacious court environment of Ulyanovsk.

This one study is, at best, suggestive but it is compatible with the weak argument for judicial independence: A set of somewhat independent courts complements the other branches in a liberal democratic order, so that all the institutions hang together in a way that has good economic consequences. Of course, economic activity can still take place in the face of a rapacious executive and weak, ineffective courts, partly because private organizations spring up to provide protection services. But this social arrangement carries a cost in economic growth.

Micro-oriented studies like this one are impractical to conduct over many countries but one can examine aggregate evidence in search of broad, systematic patterns. Barro (2000) examines economic growth in 100 countries during the 1960s, 1970s, and 1980s. He finds a positive, statistically significant, and substantively important link between economic growth and "rule of law values" as measured by surveys and reported in the *International Country Risk Guide.* "A rise of one category (among the seven used) in the Political Risk Services Index is estimated to raise the growth rate on impact by 0.5 percent per year. A change from the worst rule of law (0.0) to the best (1.0) would contribute an enormous 3.0 percent per year to the growth rate" (Barro, 2000, p. 222).

Sala-i-Martin (1997) examines the robustness of Barro's growth equations and confirms that the ICRG "rule of law" variable continues to exert a palpable impact on growth across many different specifications.

If the Barro results are believable—and one must be inclined to accord at least agnosticism to results from one of the leading students of economic growth— then an important issue is the determinants of "rule of law values." Barro studies this question, and shows that increases in per capita GDP lead to higher rule of law scores, as do increased levels of education and decreased levels of economic inequality. Countries' colonial heritage apparently affects rule of law scores—former colonies do worse than noncolonies, with Portuguese colonies suffering

Page 8 of 12

SAGE Books - Judicial Independence: How Can You Tell It When You See It? And, Who Cares?

the worst legacy and British colonies the least-bad legacy. Democracy, as measured by an electoral rights index, does not predict rule of law values (nor does it have much influence on economic growth). Barro (2000) suggests that "the evolution of electoral rights and the rule of law are largely independent," once one controls for the way in which economic development raises both measures. He argues that an increase in rule of law values increases growth, which in turn leads to greater electoral rights as well as further strengthening of rule of law.

Unfortunately, Barro does not investigate whether judicial independence furthers rule of law values. However, Yamanishi (2000b) does look at structural features of the judiciary, using data from Humana on judicial independence. In his analysis, he finds no impact of judicial independence on rule of law values. Nor does he find a link between judicial independence and economic growth. However, the statistical analysis in this convention paper is clearly rather preliminary and the results rather tentative.

This area needs a much closer and more careful look, one that is sensitive to the arguments about norms and formal protections made earlier and the sort of micro-mechanisms suggested by the Frye-Zhuravskaya study. As doubtless occurred to the reader, sensitivity to measurement issues is vital.

Judicial Independence and Human Rights and Liberties

This area has been studied by Yamanishi (2000b) and by Brickman (2000). Both use data from Humana on human rights and civil liberties scores from the 1980s and 1990s. The Humana data contain many different indicators related to civil liberties and human rights. Brickman focuses on ten indicators that seem more closely related to civil liberties. Rather sensibly, she factor analyzes the measures and shows that a single factor seems to underlie the ten indicators. The calculated principal component score then acts as her dependent variable. In contrast, Yamanishi analyzes 49 different Humana scores, each treated separately. He also groups them into four broad categories and considers patterns within and across the categories.

Brickman finds a strong, statistically significant and substantively important relationship between civil liberties and judicial independence. Yamanishi's results are difficult to summarize succinctly. However, in many cases, judicial independence appears to facilitate a human right or civil liberty.

These studies are an impressive beginning, but much remains to be done.

Judicial Independence and the Stability of Democracy

Until recently, data did not allow systematic investigation of the stability of democracies; new data sets now allow such analyses (see particularly Przeworski, Alverez, Cheibub, & Limongi, 2000). But no one has yet investigated the impact of judicial independence on democratic stability. Thus, this is a completely open area for study. Again, one should have modest expectations about the likely results, but any finding would be interesting.

Conclusion

In my view, we care about judicial independence because it supplies part of the institutional matrix supporting economic freedom and opportunity, governmental accountability, and a

decent, humane society. Or so the story goes: This is hardly an original argument. In fact, this claim is virtually a cliché in legal writings.[6] But there is at least some evidence that goes beyond cliché. The stakes matter: If there is a discernable link between an independent judiciary and a liberal, humane order, then we stand on firm ground when we argue for independent judiciaries. But if the purported link does not exist, or is so weak as to be practically indiscernible, then a defense of judicial independence must rest on other grounds. Or perhaps judicial independence is not as important as we had thought.

What is judicial independence good for? Somewhat tentatively, judicial independence appears to be good for civil liberties. "Rule of law values" appear to be good for economic growth but it is unclear what relationship (if any) might exist between judicial independence and those values. We seem to know nothing about the impact of the judiciary on democratic stability. In each of these areas, we could know much more than we do. It seems worth taking the trouble to find out.

Notes

1. There are very good reasons for preferring this definition over others; for example, it correctly attributes power to actors even in the absence of actions (the "second face of power").

2. During the conference discussion of this chapter, Professor Geoffrey Hazard questioned whether it makes sense to think of judges as having preferences, in the sense that the law may be clear and a judge's desire may be simply to decide the case in accordance with law. In this case, one can consider the clear command of the law as the judge's preference. Then the question becomes, Can the judge carry out the law? Who has power—a litigant, an affected party, a legislator, or the judge?

3. The controls are usually statistical, typically via multiple regression.

4. The analysis supplies a game theoretic rendering of "culture." The basic idea is that social groups "hang together" and punish governments that act in a predatory fashion toward any one of them, rather than "hang separately" by failing to punish predations suffered by another group. In a repeated game, hanging together can be an equilibrium—but so can hanging separately.

5. He argues, however, that many judges might support some rights that enhance their prestige and power.

6. Brickman (2000) supplies many citations.

References

Barro, R. (2000). Democracy and the rule of law. In B.Bueno de Mesquita & H.Root (Eds.), Governing for prosperity (pp. 209–231). New Haven, CT: Yale University Press.

Basu, K. (1997, May). The role of norms in law and economics: An essay on political economy. Paper presented at the conference sponsored by Institute for Advanced Study, Princeton, NJ.

Brickman, D. (2000, August/September). Judicial independence and the protection of civil liberties: A crossnational empirical analysis. Paper presented at the annual meeting of the American Political Science Association, Washington, DC.

Page 10 of 12

SAGE Books - Judicial Independence: How Can You Tell It When You See It? And, Who Cares?

Calvert, R. L., Moran, M. J., & Weingast, B. R. (1987). Congressional influence over policy making: The case of the FTC. In M. D.McCubbins & T.Sullivan (Eds.), Congress: Structure and policy (pp. 493–522). Cambridge, UK: Cambridge University Press.

Dahl, R. (1963). Modern political analysis. Englewood Cliffs, NJ: Prentice-Hall.

DeFigueiredo, J., & Tiller, E. (1996). Congressional control of the courts: A Theoretical and empirical analysis of the expansion of the federal judiciary. Journal of Law and Economics, 39, 435–462. http://dx.doi.org/10.1086/467355

Dicey, A.V. (1915). Introduction to the study of the law of the Constitution. Indianapolis, IN: Liberty Fund.

Epstein, D., & O'Halloran, S. (1999). Delegating powers: A transaction cost politics approach to policy making under separate powers. Cambridge, UK: Cambridge University Press. http://dx.doi.org/10.1017/CBO9780511609312

Ferejohn, J. (1999). Independent judges, dependent judiciary: Explaining judicial independence. Southern California Law Review, 72, 353–384.

Ferejohn, J., & Shipan, C. (1990). Control of the bureacracy [Special issue]. Journal of Law, Economics, and Organization.

Frye, T., & Zhuravskaya, E. (2001). Rackets, regulation, and the rule of law. Journal of Law, Economics, and Organization, 16(2), 478–502. http://dx.doi.org/10.1093/jleo/16.2.478

Hardin, R. (1989). Constitutions as conventions. In B.Grofman & D.Wittman (Eds.), The Federalist Papers and the new institutionalism. New York: Agathon.

Helmke, G. (1999). Ruling against the rulers: Insecure tenure and judicial independence in Argentina, 1976-1995. Unpublished manuscript.

Moraski, B., & Shipan, C. (1992). The politics of Supreme Court nominations: A theory of institutional constraints and choices. American Journal of Political Science, 43, 1069–1095. http://dx.doi.org/10.2307/2991818

Murphy, W. (1962). Congress and the Court: A case study in the American political process. Chicago: University of Chicago Press.

Nagel, J. (1975). The descriptive analysis of power. New Haven, CT: Yale University Press.

Nagel, S. (1965). Court-curbing periods in American history. Vanderbilt Law Review, 18, 925–943.

Nordlinger, E. (1981). On the autonomy of the democratic state. Cambridge, MA: Harvard University Press.

Pritchett, C.H.1961. Congress versus the Supreme Court, 1957-1960. Minneapolis: University of Minnesota Press.

Przeworski, A., Alverez, M., Cheibub, J. A., & Limongi, F. (2000). Democracy and development: Political institutions and well-being in the world, 1950-1990. New York: Cambridge University Press. http://dx.doi.org/10.1017/CBO9780511804946

Ramseyer, J. M. (1994). The puzzling (in)dependence of courts: A comparative approach. Journal of Legal Studies, 23, 721–747. http://dx.doi.org/10.1086/467943

Ramseyer, J. M., & Rasmusen, E. B. (1997). Judicial independence in a civil law regime: The evidence from Japan. Journal of Law, Economics, and Organization, 13, 259–286. http://dx.doi.org/10.1093/oxfordjournals.jleo.a023384

Rosenberg, G. (1992). Judicial independence and the reality of political power. Review of Politics, 54, 369–398. http://dx.doi.org/10.1017/S0034670500018222

Sala-i-Martin, X. (1997). I just ran two million regressions. American Economic Review, 87(2), 178–183.

Salzberger, E., & Fenn, P. (1999). Judicial independence: Some evidence from the English Court of Appeals. Journal of Law and Economics, 42, 831–847. http://dx.doi.org/10.1086/467444

Segal, J. (1998). Separation-of-powers games in the positive theory of Congress and courts. American Political Science Review, 91, 28–44. http://dx.doi.org/10.2307/2952257

Spiller, P., & Gely, R. (1992). Congressional control or judicial independence: The determinants of U.S. Supreme Court labor-relations decisions, 1949-1988. RAND Journal of Economics, 23, 463–492. http://dx.doi.org/10.2307/2555900

Spiller, P., & Tomasi, M. (in press). Judicial decision making in unstable environments, Argentina 1935-1998. American Journal of Political Science.

Weingast, B. (1997, June). The political foundations of democracy and the rule of law. American Political Science Review, 91, 245–263. http://dx.doi.org/10.2307/2952354

Yamanishi, D. S. (1999, August/September). Judicial independence and the rule of law: The ineffectiveness of judicial independence alone as a path to development. Paper presented at the annual meeting of the American Political Science Association, Atlanta, GA.

Yamanishi, D. S. (2000a, August/September). Rule of law, property rights, and human rights: An informal theory of the effects (and non-effects) of legal institutions. Paper presented at the annual meeting of the American Political Science Association, Washington, DC.

Yamanishi, D. S. (2000b, August/September). Rule of law, property rights, and human rights: An empirical study of the effects (and non-effects) of legal institutions. Paper presented at the annual meeting of the American Political Science Association, Washington, DC.

Young, P. (1998). Individual strategy and social structure: An evolutionary theory of institutions. Princeton, NJ: Princeton University Press.

- judicial independence
- judiciary
- independence
- rule of law
- economic independence
- economic growth
- actors

http://dx.doi.org/10.4135/9781452229577.n6