

# Political Questions In The Courts A Juridical Function In Democracies Israel

Silvia Rainone

#### Political Questions In The Courts A Juridical Function In Democracies Israel:

Political Questions in the Courts Yaacov S. Zemach,1976 Judicial Power and National Politics, Second Edition
Patricia J. Woods,2017-02-21 In Judicial Power and National Politics Second Edition Patricia J Woods returns to an issue that
has only grown in relevance since the first edition s publication in 2008 the religious secular conflict in Israel The first
edition focused on the role that courts and justices play in deeply charged political battles In the last quarter of the twentieth
century social groups turned to the judicial arm of the state in an effort to force the state to change its laws and policies on
religious personal status law or family law Through an extensive case study of the interactions of the women s movement
with the High Court of Justice Woods argues that the most important determining factor explaining when why and how
national courts enter into the world of divisive politics is found in the intellectual or judicial communities with whom justices
live work and think about the law The interaction among members of this community over time culminates in new legal
norms This second edition takes into account what has happened in the past decade with public debate over religion and the
state moving away from the court and into the realm of popular politics on the Knesset floor in the media in shopping malls
and on the streets Included for the first time is the dataset for the author's national survey of women's movement volunteers

The Cambridge Companion to Judaism and Law Christine Hayes, 2017-02-17 The Cambridge Companion to Judaism and Law provides a conceptual and historical account of the Jewish understanding of law The Occupation of Justice David Kretzmer, Yaël Ronen, 2021-02-12 Judicial review by Israel s Supreme Court over actions of Israeli authorities in the territories occupied by Israel in 1967 is an important element in Israel's legal and political control of these territories The Occupation of Justice presents a comprehensive discussion of the Court's decisions in exercising this review This revised and expanded edition includes updated material and analysis as well as new chapters Inter alia it addresses the Court's approach to its jurisdiction to consider petitions from residents of the Occupied Territories justiciability of sensitive political issues application and interpretation of the international law of belligerent occupation in general and the Fourth Geneva Convention in particular the relevance of international human rights law and Israeli constitutional law the rights of Gaza residents after the withdrawal of Israeli forces and settlements from the area Israeli settlements and settlers construction of the separation barrier in the West Bank security measures including internment interrogation practices and punitive house demolitions and judicial review of hostilities The study examines the inherent tension involved in judicial review over the actions of authorities in a territory in which the inhabitants are not part of the political community the Court belongs to It argues that this tension is aggravated in the context of the West Bank by the glaring disparity between the norms of belligerent occupation and the Israeli government s policies The study shows that while the Court s review has enabled many individuals to receive a remedy it has largely served to legitimise government policies and practices in the Occupied Territories

Judicial Activism in Bangladesh Ridwanul Hoque, 2011-01-18 This book critically examines the evolving global trend of

judicial activism with particular reference to Bangladesh It constructs judicial activism as a golden mean adjudicative technology standing between excessive judicial assertion and unacceptable judicial passivity that may leave injustices un redressed It argues that judicial balancing between over activism and meek administration of justice should essentially be predicated upon domestic conditions and the needs and fundamental public values of the judges respective society Providing cross jurisdictional empirical evidence the study demonstrates that judicial activism steered towards improving justice and grounded in one's societal specificities can be exercised in a morally and legally legitimate form and without rupturing the balance of powers among the state organs This study has sought to displace the myth of judicial activism as constitutional transgression by unelected judges arguing that judicial activism is quite different from excessivism It is argued and shown that a particular judge or judiciary turns out to be activist when other public functionaries avoid or breach their constitutional responsibilities and thus generate injustice and inequality The study treats judicial activism as the conscientious exposition of constitutional norms and enforcement of public duties of those in positions of power The study assesses whether Bangladeshi judges have been striking the correct balance between over activism and injudicious passivity Broadly the present book reveals judicial under activism in Bangladesh and offers insights into causes for this It is argued that the existing milieu of socio political injustices and over balance of constitutional powers in Bangladesh calls for increased judicial intervention and guidance of course in a balanced and pragmatic manner which is critical for good governance and social justice Writing about judicial activism easily gets shackled by fussy and pedestrian debates about what judges may or may not do as unelected agents of governance The book goes much beyond such reductionist pedestrianisation of law for it courageously lifts the debate into the skies of global legal realism The analysis perceptively addresses bottlenecks of justice identifying shackles and mental blocks in our own minds against activising concerns for justice for the The Politics of Judicial Independence Bruce Peabody, 2011 2011 common citizen Prof Werner Menski Foreword 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 Beyond the Death of God Simone Raudino, Patricia Sohn, 2022-05-26 This volume offers a nuanced picture with specific instances of religion and politics in Muslim Jewish Christian Buddhist and Hindu contexts broadly presenting the phenomenon of religion and politics via country and thematic case studies Qualitative quantitative material philosophical and theological analyses draw upon social theory to show how and why religion matters deeply in each time and place The authors and contributors demonstrate that religion is a significant force that drives societies and polities around the world and that a radical change in the Western understanding of value driven global politics is needed Beyond the Death of God offers new local voices to Western audiences through essays that suggest the need for an appreciation of Divinity as a quintessence holding a significant place in the hearts minds social orders and political organization of polities around the Courts, Politics, and Culture in Israel Martin Edelman, 1994 Moreover Israel lacks the organizing structure and world directing force provided by a written constitution Israel's Higher Law Steven V. Mazie, 2006-04-07 In Israel s Higher Law Steven V Mazie draws on the voices of Israeli citizens to shed new light on the relationship between liberal democracy and religion By analyzing Israelis perspectives on a number of divisive issues including Jewish state symbols marriage law public Sabbath observance and funding for religious education Mazie identifies a rift between Israeli and American understandings of separation of religion and state and a gulf between Jewish and Arab citizens visions for Israel s religion state arrangement Mazie's compelling study offers more valuable insight into these dilemmas than any publication to date and proposes new guidelines for resolving them Israel s Higher Law is the definitive work on the tensions between religion and democracy in Israel It is a must read for anyone interested in politics and Jewish studies The Role of the Court of Justice in EU Labour Law Silvia Rainone, 2023-05-17 In an unresolved ongoing debate the Court of Justice of the European Union CJEU is often included among the institutional actors responsible for the declining condition of labour law in Europe Has its case law been more protective of employers interests than of workers rights This innovative book greatly enhances the discussion by bringing to light the judicial lawmaking logic other than those pertaining to the balancing of social and business values that drive the CJEU s reasoning in its interpretation of the labour law provisions enshrined in the European Union EU law with particular attention to the directive on transfer of undertakings Addressing fundamental issues such as uneven bargaining power labour as a commodity coexistence of workers rights and the market economy in the context of judicial lawmaking the author clearly defines the tensions at work What normative models underlie the approaches of EU institutional policymakers with respect to labour law Does the CIEU have its own vision of the socioeconomic model to which

the Union should adhere How does the CIEU's interpretative approach stand in relation to the transformation processes that regulators impose on labour law Is the CJEU particularly attentive to the preferences expressed by national governments especially those from the most politically influential states or rather reflect the political pressure of the European Commission What is the role of trans judicial dynamics in shaping the CJEU s reasoning in labour law cases The study is extraordinarily thorough drawing on a wide range of policy documents scholarly and doctrinal research and the entire body of the CJEU s case law on transfer of undertakings The legal arguments that the CJEU has developed over the years are mapped and classified according to their affinity with the labour law functions that underlie them With its comprehensive assessment of the normative implications of EU policymaking in the labour and social domains its thorough exploration of the CIEU's judicial lawmaking dynamics and its extensive empirical legal analysis of the CIEU's case law on transfer of undertakings the book has no peers in revealing the forces that guide the CIEU s decisions in the realm of labour law Of particular value to scholars and researchers interested in EU social policies and constitutional law the book will also prove of immeasurable value to labour law practitioners aiming to use the case law of the CJEU as well as to in house counsel industrial relation specialists and trade unionists Judicial Review and Electoral Law in a Global Perspective Cristina Fasone, Edmondo Mostacci, Graziella Romeo, 2024-03-21 This book fills a gap in constitutional law by examining the global trend towards the substantive constitutional adjudication of electoral legislation It explores the premises on which this judicial scrutiny is grounded seeks to explain the trend and examines its consequences for representative democracy The book offers a comparative analysis of the issue investigating how the exchange of models and arguments among judges has catalysed the progressive departure from a traditionally deferential approach to electoral norms an approach that still persists in a few jurisdictions To accomplish this the book delves into the democratic foundations of electoral systems and their evolution It also explores the methodological choices that constitutional judges face when dealing with electoral legislation This groundwork sets the stage for an in depth review of case law in more than fifteen legal systems spanning North and South America Africa Asia Oceania and Europe The objective is to identify the underlying concept of democracy that courts aim to promote The authors critically discuss the varying ideas of democracy evident in each jurisdiction including the use of constitutional borrowing and they analyse the effects of judgments on the relationship between courts representative institutions and voters Given its global scope the combination of theoretical and practical approaches and the comprehensive comparative assessment it provides this work is of interest to academics in the fields of law political science and philosophy It is also relevant for policymakers and judges in constitutional democracies across continents An Almanac of Contemporary Characterisation of Judicial Restatements -Annotated with Treaties, Statutes, Rules and Commentaries 'lai Oshitokunbo Oshisanya, 2025-09-09 JuriScience is an approach through systematic study of the structure of legal phenomena in the law of nature from the perspective of philosophy of science to inform by exploration of

formulas relations or order of phenomena as held in the world under stipulated set of conditions either universally or in a stated proportion of formalised categories in this jurisprudential version Constitutional Democracy in Crisis? Mark A. Graber, Sanford Levinson, Mark Tushnet, 2018-08-23 Is the world facing a serious threat to the protection of constitutional democracy There is a genuine debate about the meaning of the various political events that have for many scholars and observers generated a feeling of deep foreboding about our collective futures all over the world Do these events represent simply the normal ebb and flow of political possibilities or do they instead portend a more permanent move away from constitutional democracy that had been thought triumphant after the demise of the Soviet Union in 1989 Constitutional Democracy in Crisis addresses these questions head on Are the forces weakening constitutional democracy around the world general or nation specific Why have some major democracies seemingly not experienced these problems How can we as scholars and citizens think clearly about the ideas of constitutional crisis or constitutional degeneration What are the impacts of forces such as globalization immigration income inequality populism nationalism religious sectarianism Bringing together leading scholars to engage critically with the crises facing constitutional democracies in the 21st century these essays diagnose the causes of the present afflictions in regimes regions and across the globe believing at this stage that diagnosis is of central importance as Abraham Lincoln said in his House Divided speech If we could first know where we are and whither we are tending we could then better judge what to do and how to do it 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 Independence: Cornerstone of Democracy* Shimon Shetreet, Hiram Chodosh, 2024-04-22 This book is an academic continuation of the previous five volumes on judicial independence edited by Shimon Shetreet with

others Jules Deschenes Christopher Forsyth Wayne McCormack Hiram E Chodosh and Eric Helland all books were published by Brill Nijhoff Judicial Independence The Contemporary Debate 1985 The Culture of Judicial Independence Conceptual Foundations and Practical Challenges 2012 The Culture of Judicial Independence Rule of Law and World Peace 2014 The Culture of Judicial Independence in a Globalised World 2016 Challenged Justice In Pursuit of Judicial Independence 2021 This volume offers studies by distinguished scholars and judges from different jurisdictions on numerous dimensions regarding the essential role of judicial independence in democracy It includes analyses of basic constitutional principles and contemporary issues of judicial independence and judicial process in many jurisdictions and analyses of international standards of judicial independence and judicial ethics You can find a podcast of this book here Brill Nijhoff Lawcast

Research Handbook on Law and Political Systems Robert M. Howard, Kirk A. Randazzo, Rebecca A. Reid, 2023-11-03 This Research Handbook is a multi faceted comparative analysis of how law and political systems interact around the world Chapters include analyses of judicial deference congressional support democratic representation politicization of courts public support and judicialization across multiple jurisdictions in the United States and abroad Chapters also investigate transnational courts and the linkages between international and domestic law and politics The Global Expansion of **Judicial Power** C Neal Tate, Torbjorn Vallinder, 1997-06-01 Essays examining the trend of expanding judicial powers in government around the world 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 hardline 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 millennium 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 The Role of National Courts in Applying International Humanitarian Law Sharon Weill, 2014-03-06 International law is increasingly applied in domestic courts. This can result in situations where the courts are being asked to rule on politically sensitive issues especially issues which involve actions during armed conflicts Domestic courts do not show a uniformity of approach in addressing cases concerning international humanitarian law and can often be seen to differ markedly in their response The book argues that different national courts demonstrate different functional

roles in different countries These can be situated on a scale from apology to utopia which can be set out as follows 1 the apologist role of courts in which they serve as a legitimating agency of the state s actions 2 the avoiding role of courts in which they for policy considerations avoid exercising jurisdiction over a case 3 The deferral role of courts in which courts defer back to the other branches of the government the responsibility of finding an appropriate remedy 4 the normative application role of courts in which they apply international humanitarian law as required by the rule of law and 5 the utopian role of courts in which they introduce moral judgments in favour of the protection of the individual beyond the requirements of the law The book investigates the rulings of five key domestic courts those of the UK the USA Canada Italy and Israel to understand how their approaches differ and where their practice can be placed on the methological scale This analysis has been assisted by the author's extensive field work notably in Israel and in the Occupied Palestinian Territories Providing a detailed understanding each court's function the book offers a critical analysis of the courts rulings in which both the legal arguments and the political context of cases they have ruled on are examined The book shows that the functional role of the national courts is a combination of contradictions and mixed attitudes and that national courts are in the process of defining their own role as enforcing organs of international humanitarian law The Handbook of Israel's Political System Itzhak Galnoor, Dana Blander, 2018-04-30 There is growing interest in Israel's political system from all parts of the world This Handbook provides a unique comprehensive presentation of political life in Israel from the formative pre state period to the present The themes covered include political heritage and the unresolved issues that have been left to fester the institutional framework the Knesset government judiciary presidency the state comptroller and commissions of inquiry citizens political participation elections political parties civil society and the media the four issues that have bedevilled Israeli democracy since its establishment security state and religion the status of Israel's Arab citizens and economic inequities with concomitant social gaps and the contours of the political culture and its impact on Israel's democracy The authors skilfully integrate detailed basic data with an analysis of structures and processes making the Handbook accessible to both experts and those with a general interest in Israel The Justiciability of International Disputes Solon Solomon, 2009

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