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Judging the state

*Courts and constitutional politics
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Judging The State Courts And Constitutional Politics In Pakistan

Waris Husain



Judging The State Courts And Constitutional Politics In Pakistan:

Judging the State Paula R. Newberg, 2002-05-16 The political history of Pakistan is characterised by incomplete constitution making a process which has placed the burden of constitutional interpretation on state instruments ranging from the bureaucracy to the military to the judiciary In a penetrating and original study of the relationship between state and civil society in Pakistan Paula Newberg demonstrates how the courts have influenced constitutional development and the structure of the state By examining judicial decisions particularly those made at times of political crisis she considers how tensions within the judiciary and between courts and other state institutions have affected the ways political society views itself and explores the consequences of these debates for the formal organisation of political power *The Pakistan Paradox* Christophe Jaffrelot, 2016-06-16 The idea of Pakistan stands riddled with tensions Initiated by a small group of select Urdu speaking Muslims who envisioned a unified Islamic state today Pakistan suffers the divisive forces of various separatist movements and religious fundamentalism A small entrenched elite continue to dominate the country's corridors of power and democratic forces and legal institutions remain weak But despite these seemingly insurmountable problems the Islamic Republic of Pakistan continues to endure The Pakistan Paradox is the definitive history of democracy in Pakistan and its survival despite ethnic strife Islamism and deepseated elitism This edition focuses on three kinds of tensions that are as old as Pakistan itself The tension between the unitary definition of the nation inherited from Jinnah and centrifugal ethnic forces between civilians and army officers who are not always in favour of or against democracy and between the Islamists and those who define Islam only as a cultural identity marker **The Judicialization of Politics in Pakistan** Waris Husain, 2018-03-28 Since 2007 the Supreme Court of Pakistan has emerged as a dominant force in Pakistani politics through its hyper active use of judicial review or the power to overrule Parliament's laws and the Prime Minister's acts This hyper activism was on display during the Supreme Court's unilateral disqualification of Prime Minister Yousef Raza Gilani in 2012 under the leadership of Chief Justice Iftikhar Chaudhry Despite the Supreme Court's practical adoption of restraint subsequent to the retirement of Chief Justice Chaudhry in 2013 the Court has once again disqualified a prime minister Nawaz Sharif due to allegations of corruption in 2017 While many critics have focused on the substance of the Court's decisions in these cases sufficient focus is not paid to the amorphous case selection process of the Supreme Court of Pakistan In order to compare the relatively unregulated process of case selection in Pakistan to the more structured processes utilized by the Supreme Courts of the United States and India this book aims to understand the historical roots of judicial review in each country dating back to the colonial era extending through the foundational period of each nation impacting present day jurisprudence As a first in its kind this study comparatively examines these periods of history in order to contextualize a practical prescription to standardize the case selection process in the Supreme Court of Pakistan in a way that retains the Court's overall power while limiting its involvement in purely political issues This publication offers a critical and

comparative view of the Supreme Court of Pakistan's recent involvement in political disputes due to the lack of a discerning case selection system that has otherwise been adopted by the Supreme Courts of India and the United States to varying degrees. It will be of interest to academics in the fields of Asian Law, South Asian Politics and Law and Comparative Law.

Routledge Handbook of South Asian Politics Paul R. Brass, 2010-04-30 The Routledge Handbook of South Asian Politics examines key issues in politics of the five independent states of the South Asian region: India, Pakistan, Bangladesh, Sri Lanka, and Nepal. Written by experts in their respective areas, this Handbook introduces the reader to the politics of South Asia by presenting the prevailing agreements and disagreements in the literature. In the first two sections, the Handbook provides a comprehensive introduction to the modern political history of the states of the region and an overview of the independence movements in the former colonial states. The other sections focus on the political changes that have occurred in the postcolonial states since independence, as well as the successive political changes in Nepal during the same period, and the structure and functioning of the main governmental and non-governmental institutions, including the structure of the state itself, unitary or federal, political parties, the judiciary, and the military. Further, the contributors explore several aspects of the political process and political and economic change, especially issues of pluralism and national integration, political economy, corruption, and criminalization of politics, radical and violent political movements, and the international politics of the region as a whole. This unique reference work provides a comprehensive survey of the state of the field and is an invaluable resource for students and academics interested in South Asian Studies, South Asian Politics, Comparative Politics, and International Relations.

Military, State and Society in Pakistan H. Rizvi, 2000-05-15 This book offers a comprehensive study of the dynamics of civil-military relations in Pakistan. It asks how and why the Pakistan military has acquired such a salience in the polity and how it continues to influence decision-making on foreign and security policies and key domestic political, social, and economic issues. It also examines the changes within the military, the impact of these changes on its disposition towards the state and society, and the implications for peace and security in nuclearized South Asia.

Consequential Courts Diana Kapiszewski, Gordon Silverstein, Robert A. Kagan, 2013-04-08 In the early twenty-first century, courts have become versatile actors in the governance of many constitutional democracies, and judges play a variety of roles in politics and policy-making. Assembling papers penned by academic specialists on high courts around the world and presented during a year-long Andrew W. Mellon Foundation John E. Sawyer Seminar at the University of California, Berkeley, this volume maps the roles in governance that courts are undertaking and the ways they have come to matter in the political life of their nations. It offers empirically rich accounts of dramatic judicial actions in the Americas, Europe, the Middle East, and Asia, exploring the political conditions and judicial strategies that have fostered those assertions of power and evaluating when and how courts' performance of new roles has been politically consequential. By focusing on the content and consequences of judicial power, the book advances a new agenda for the comparative study of courts.

Founding

Moments in Constitutionalism Richard Albert, Menaka Guruswamy, Nishchal Basnyat, 2019-10-17 Founding moments are landmark events that break ties with the ancient regime and lay the foundation for the establishment of a new constitutional order. They are often radically disruptive episodes in the life of a state. They reshape national law, reset political relationships, establish future power structures and influence happenings in neighbouring countries. This edited collection brings together leading and emerging scholars to theorise the phenomenon of a founding moment. What is a founding moment? When does the founding process begin and when does it end? Is a founding moment possible without yielding a new constitution? Can a founding moment lead to a partial or incomplete transformation? And should the state be guided by the intentions of those who orchestrated these momentous breaks from the past? Drawing from constitutions around the world, the authors ask these and other fundamental questions about making and remaking constitutions. The Oxford Handbook of Law and Politics

Keith E. Whittington, R. Daniel Kelemen, Gregory A. Caldeira, 2010-06-10 The study of law and politics is one of the foundation stones of the discipline of political science and it has been one of the most productive areas of cross fertilization between the various subfields of political science and between political science and other cognate disciplines. This Handbook provides a comprehensive survey of the field of law and politics in all its diversity, ranging from such traditional subjects as theories of jurisprudence, constitutionalism, judicial politics and law and society to such re-emerging subjects as comparative judicial politics, international law and democratization. The Oxford Handbook of Law and Politics gathers together leading scholars in the field to assess key literatures shaping the discipline today and to help set the direction of research in the decade ahead.

Emergency Powers in Asia Victor V. Ramraj, Arun K. Thiruvengadam, 2010 What role does and should legal and political and constitutional norms play in constraining emergency powers in Asia and beyond? Imagining Pakistan Rasul Bakhsh Rais, 2017-08-30 *Imagining Pakistan* argues that the creation of Pakistan is a result of Muslim modernism in the Subcontinent as it defined the struggle for identity, nationalism and empowerment of Muslim communities. This modernist movement represented the ideals of inclusivity, equal rights, a liberal constitutional framework and a shared sense of political community among diverse ethnic and regional groups. However, while this modernity was the ideal of Pakistan's founders, it faced resistance from Islamists obsessed with recovering a past legacy of lost Muslim glory. A major threat to political modernism also came from the military that wanted to create a strong and secure Pakistan through controlled democracy. Multiple interventions by the military and deviations from the foundational republican ideas left Pakistan in the rough sea of power struggles, causing institutional decay and creating space for the rise of radical Islam. *Imagining Pakistan* analyzes the institutional imbalance between the military and the civilian groups, the idea of the security state and the Islamist social forces and movements that have been engaged in the politics of Islamic revival. It argues that Pakistan's stability, security and progress will depend on pursuing the path of political modernity. Although the restoration of parliamentary democracy and the resilience of the Pakistani society are hopeful signs, resolving the critical issues that Pakistan faces today will require

consolidation of democracy better leadership and a moderate and modernist vision of both the state and the society

Pakistan's Political Parties Mariam Mufti,Sahar Shafqat,Niloufer Siddiqui,2020-05-01 Pakistan s 2018 general elections marked the second successful transfer of power from one elected civilian government to another a remarkable achievement considering the country s history of dictatorial rule Pakistan s Political Parties examines how the civilian side of the state s current regime has survived the transition to democracy providing critical insight into the evolution of political parties in Pakistan and their role in developing democracies in general Pakistan s numerous political parties span the ideological spectrum as well as represent diverse regional ethnic and religious constituencies The essays in this volume explore the way in which these parties both contend and work with Pakistan s military bureaucratic establishment to assert and expand their power Researchers use interviews surveys data and ethnography to illuminate the internal dynamics and motivations of these groups and the mechanisms through which they create policy and influence state and society Pakistan s Political Parties is a one of a kind resource for diplomats policymakers journalists and scholars searching for a comprehensive overview of Pakistan s party system and its unlikely survival against an interventionist military with insights that extend far beyond the region

Constitutionalism beyond Liberalism Michael W. Dowdle,Michael A. Wilkinson,2017-01-26 Explores the possibilities of constitutionalism from diverse theoretical and comparative perspectives particularly those from outside liberal and Anglo European paradigms

Pakistan C. Christine Fair,Keith Crane,Christopher S. Chivvis,Samir Puri,Michael Spirtas,2010-04-13 The authors exposit likely developments in Pakistan s internal and external security environment over the coming decade assess Pakistan s national will and capacity to solve its problems especially those relating to security describe U S interests in Pakistan and suggest policies for the U S government to pursue in order to secure those interests

Unstable Constitutionalism Mark Tushnet,Madhav Khosla,2015-09-17 This book examines constitutional law and practice in five South Asian countries India Pakistan Sri Lanka Nepal and Bangladesh

Fates of Political Liberalism in the British Post-Colony Terence C. Halliday,Lucien Karpik,Malcolm M.

Feeley,2012-02-13 This book presents a theory of political liberalism in the British post colonies

The Political Ecology of Pakistan Gholam Mujtaba,2018-10-22 Pakistan is about to play a pivotal role in global politics Serving as a gateway to the Middle East and a conduit to Central and South Asia it will be a crucial partner as the United States contends with China s rise as an emerging global superpower and seeks to maintain its hegemony in the region The problem is for many people in the West Pakistan is somewhat of a black box with few Westerners understanding the country s complex history and current political reality The Political Ecology of Pakistan aims to change this by outlining the geopolitical history of Pakistan since the country gained independence in 1947 focusing in particular on the military s ongoing role in state affairs and the struggle for democracy to take root in the region In addition this book outlines Pakistan s improved economy internal security religious harmony equality of opportunity corruption free society and growing transparency and accountability all of which will make

the country a vital partner in securing and maintaining peace in the region This information will be of interest to policymakers as well as those who are seeking to understand Pakistan's geopolitical significance 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 *Unconstitutional Constitutional Amendments* Yaniv Roznai, 2017 Can constitutional amendments be unconstitutional Using theoretical and comparative approaches Roznai establishes the nature and scope of constitutional amendment powers by focusing on substantive limitations looking at their prevalence in practice and the conceptual coherence of the very idea of limitations to constitutional amendment powers

Constitution-Making and Transnational Legal Order Gregory Shaffer, Tom Ginsburg, Terence C. Halliday, 2019-04-18 Since the rise of the nation state in the nineteenth century constitutions have been seen as an embodiment of national values and identity However individuals ideas and institutions from abroad have always influenced constitutions and so the process is better described as transnational As cross border interaction is increasing in intensity a dominant transnational legal order for constitutions has emerged with its own norms guidelines and shared ideas Yet both the process and substance of constitution making are being contested in divergent and insurgent constitutional orders Bringing together leading scholars from the United States Europe Latin America and Asia this volume addresses the actors networks norms and processes involved in constitution making as well as the related challenges from a transnational and comparative perspective Drawing from the research on transnational legal orders this work explores and examines constitution making in every region of the world **Litigating the Climate Emergency** César Rodríguez-Garavito, 2022-11-03 As the climate emergency intensifies rights based climate cases litigation that is based on human rights law are becoming an increasingly important tool for securing more ambitious climate action This book is the first to offer a systematic analysis of the universe of these cases known as human rights and climate change HRCC cases By combining theory empirical documentation and strategic debate among preeminent scholars and practitioners from around the world the book captures the roots legal innovations empirical richness impact and challenges of this dynamic field of sociolegal practice It looks specifically at the sociolegal origins and trajectory of HRCC cases the legal innovations of this type of litigation and the strategies and impacts of these cases In doing

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