

J. MARK RAMSEYER *and* ERIC B. RASMUSEN

# Measuring Judicial Independence

*The Political Economy of  
Judging in Japan*

# Measuring Judicial Independence The Political Economy Of Judging In Japan

**J. Mark Ramseyer, Eric B. Rasmusen**



## **Measuring Judicial Independence The Political Economy Of Judging In Japan:**

**Measuring Judicial Independence** J. Mark Ramseyer, Eric B. Rasmusen, 2010-02-15 The role of the U S Supreme Court in the aftermath of the 2000 presidential election raised questions in the minds of many Americans about the relationships between judges and political influence the following years saw equally heated debates over the appropriate role of political ideology in selecting federal judges Legal scholars have always debated these questions asking in effect how much judicial systems operate on merit and principle and how much they are shaped by politics The Japanese Constitution like many others requires that all judges be independent in the exercise of their conscience and bound only by this Constitution and its laws Consistent with this requirement Japanese courts have long enjoyed a reputation for vigilant independence an idea challenged only occasionally and most often anecdotally But in this book J Mark Ramseyer and Eric B Rasmusen use the latest statistical techniques to examine whether that reputation always holds up to scrutiny whether and to what extent the careers of lower court judges can be manipulated to political advantage On the basis of careful econometric analysis of career data for hundreds of judges Ramseyer and Rasmusen find that Japanese politics do influence judicial careers discreetly and indirectly judges who decide politically charged cases in ways favored by the ruling party enjoy better careers after their decisions than might otherwise be expected while dissenting judges are more likely to find their careers hampered by assignments to less desirable positions Ramseyer and Rasmusen s sophisticated yet accessible analysis has much to offer anyone interested in either judicial independence or the application of econometric techniques in the social sciences *The Supreme Court and Benign Elite Democracy in Japan* Hiroshi Itoh, 2016-03-03 The Constitution of Japan has served the country for more than half a century creating and maintaining a stable and functional democratic system This book innovatively interprets Japanese politics as a benign elite democracy whilst demonstrating the Supreme Court s vital contribution to the political structure In *The Supreme Court and Benign Elite Democracy in Japan* Hiroshi Itoh presents the first empirical study of judicial decision making under Japan s Constitution He examines the Supreme Court s records regarding the protection of civil rights and liberties the preservation of the conformity of lower levels of laws and regulations to the Constitution and the maintenance of the Court s relationships to the political branches The analysis of these three aspects of constitutional litigation reveal how the Supreme Court contributes to the efficacy of constitutional democracy by keeping the system adaptable to the ever changing environment in and around Japan **Constitutional Convergence in East Asia** Po Jen Yap, Chien-Chih Lin, 2021-11-25 This comparative study of the constitutional jurisprudence of three East Asian jurisdictions investigates how the rulings of the Constitutional Court of Taiwan the Constitutional Court of Korea and the Hong Kong Court of Final Appeal have converged The unique political contexts of all three jurisdictions have led to strong courts using the structured proportionality doctrine and innovative constitutional remedies to address human rights issues Hong Kong Taiwan and South Korea have the only courts in Asia that regularly use a structured four stage

Proportionality Analysis to invalidate laws and routinely apply innovative constitutional remedies such as Suspension Orders and Remedial Interpretation to rectify constitutionally flawed legislation This volume explores how judges in these areas are affected by politics within their different constitutional systems The latest developments in Asian constitutional law are covered with detailed analysis of key cases      *The Development of Jury Service in Japan* Anna Dobrovolskaia,2016-08-19 This book presents a comprehensive account of past and present efforts to introduce the jury system in Japan Four legal reforms are documented and assessed the implementation of the bureaucratic and all judge special jury systems in the 1870s the introduction of the all layperson jury in the late 1920s the transplantation of the Anglo American style jury system to Okinawa under the U S Occupation and the implementation of the mixed court lay judge saiban in system in 2009 While being primarily interested in the related case studies the book also discusses the instances when the idea of introducing trial by jury was rejected at different times in Japan s history Why does legal reform happen What are the determinants of success and failure of a reform effort What are the prospects of the saiban in system to function effectively in Japan This book offers important insights on the questions that lie at the core of the law and society debate and are highly relevant for understanding contemporary Japan and its recent and distant past      **New Courts in Asia** Andrew Harding, Penelope Nicholson,2010-01-21 This book discusses court oriented legal reforms across Asia with a focus on the creation of new courts over the last 20 years Contributors discuss how to judge new courts and examine whether the many new courts introduced over this period in Asia have succeeded or failed The new courts under scrutiny are mainly specialist courts including those established to hear cases involving intellectual property disputes bankruptcy petitions commercial contracts public law adjudication personal law issues and industrial disputes The justification of the trend to judicialize disputes has seen the invocation of Western style rule of law as necessary for the development of the market economy democratization good governance and the upholding of human rights This book also includes critics of court building who allege that it serves a Western agenda rather than serving local interests and that the emphasis on judicialization marginalises alternative local and traditional modes of dispute resolution Adopting an explicitly comparative perspective and contrasting the experiences of important Asian states China Japan Korea Malaysia Vietnam Brunei Thailand and Indonesia this book considers critical questions including Why has the new court model been adopted and why do international development agencies and nation states tend to favour it What difficulties have the new courts encountered How have the new courts performed What are the broader implications of the trend towards the adoption of judicial solutions to economic social and political problems Written by world authorities on court development in Asia this book will not only be of interest to legal scholars and practitioners but also to development specialists economists and political scientists      Who Rules Japan? Leon Wolff, Luke Nottage, Kent Anderson,2015-04-30 The dramatic growth of the Japanese economy in the postwar period and its meltdown in the 1990s has attracted sustained interest in the power dynamics underlying the management of Japan s administrative state Scholars and

commentators have long debated

**Courts and Judicial Policymaking** Christopher P. Banks, David M. O'Brien, 2008 For courses in courts and the judicial process and law and society The scope of its coverage and its high academic quality makes it attractive for graduate courses as well Christopher P Banks and David M O'Brien wrote *Courts and Judicial Policymaking* to fill a need for a comprehensive textbook on law and judicial policymaking The text provides a fresh perspective on the contemporary politics of law courts the legal profession and judicial policymaking often with an underlying comparative judicial process perspective It covers four distinct areas 1 What is law 2 How are courts organized and how do they work procedurally 3 What influences court access and ultimately judicial decision making and 4 How do courts make policy and how is judicial authority constrained It has relevant and contemporary analyses of literature from the political science and legal fields and analyses from scholars who argue from the quantitative attitudinal and strategic models and the qualitative new institutionalism perspectives It contains up to date charts and graphs on the organization of courts and trends in litigation caseloads and opinion writing and it is appropriate for undergraduate and graduate classes Feedback includes The book is extremely well written and organized one of the smoothest textbooks I have read in terms of readability The tables provided are a major selling point for the book nicely summarize complex and often confusing materials Roger Handberg University of Central Florida The best feature of this manuscript is its thorough coverage of the subject matter as well as the in depth analysis of specific topics and questions addressed in the boxed material and sidebars Adding a comparative dimension by looking at the judicial systems and procedures of other countries is also quite novel Susan Mezey Loyola University Chicago

**The Journal of Japanese Studies**, 2006 A multidisciplinary forum for communicating new information new interpretations and recent research results concerning Japan to the English reading world

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**Japanese Business Law** Gerald Paul McAlinn, 2007 Since the and lost decade and of the nineties the progress of

Japanese administrative and economic reform has been intense. Although some early critics characterized the reforms as window dressing and it is becoming clearer that systemic reform has taken hold and the new Japanese economy is picking up. This deeply knowledgeable book provides a penetrating analysis and expert evaluation of matters of crucial concern to business lawyers including corporate governance, contract law, business liabilities, intellectual property, media, employment, taxation, investment, the legal profession, the judiciary, and much more as they are developing and intersecting in Japan today. In the course of the detailed presentation, the contributors touch on such details of interest to those doing business in Japan as the following: status of foreign lawyers, mergers and acquisitions, leveraged buyouts, grounds for terminating contracts, real estate transactions, antimonopoly law and licensing guidelines, IT and e-commerce law, managing disciplining and terminating employees, occupational safety and health, labor union law, corporation income taxation, government programs offering low cost finance, consumer protection laws and litigation, and alternative dispute resolution. One of the most valuable benefits of the contributors' approach is the keen insight offered into the *tatemae* outward appearance well known to frustrate and mislead foreigners in almost any dealings with the Japanese. **Columbia Law Review**, 2005 **Michigan Journal of International Law**, 2005 **Trademark and Unfair Competition Law and Policy in Japan** Kenneth L. Port, 2007. Port describes both the nature and process of protecting appellations of source in Japan and provides normative commentary on this protection. By focusing on the Japanese judiciary's interpretation of two statutes, the Trademark Law and the Unfair Competition Prevention Act, some important lessons are learned. First, the Japanese judiciary treats trademark owners, both foreign and domestic, paternalistically. Japanese courts go to great extremes to avoid harsh results that seem possible under a strict reading of these two statutes. Second, Japanese trademark owners are extremely rights-conscious and pursue litigation to the fullest in order to drive up the cost of market access by competitors. Third, the Japanese trademark right operates more like a true property right than it does in America. This has broad ramifications as judges treat the right with far more deference than their American counterparts. **Guide to International Legal Research**, 2009 **Michigan Law Review**, 2003 *Principles of Comparative Politics* William Roberts Clark, Matt Golder, Sona Nadenichek Golder, 2009. Exploring the debates about political issues that drive current research, this text provides a real insight into comparative politics. The book looks closely at the work of comparativists and the methods they use.

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## **Table of Contents Measuring Judicial Independence The Political Economy Of Judging In Japan**

1. Understanding the eBook Measuring Judicial Independence The Political Economy Of Judging In Japan
  - The Rise of Digital Reading Measuring Judicial Independence The Political Economy Of Judging In Japan
  - Advantages of eBooks Over Traditional Books
2. Identifying Measuring Judicial Independence The Political Economy Of Judging In Japan
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in an Measuring Judicial Independence The Political Economy Of Judging In Japan
  - User-Friendly Interface
4. Exploring eBook Recommendations from Measuring Judicial Independence The Political Economy Of Judging In Japan
  - Personalized Recommendations
  - Measuring Judicial Independence The Political Economy Of Judging In Japan User Reviews and Ratings
  - Measuring Judicial Independence The Political Economy Of Judging In Japan and Bestseller Lists
5. Accessing Measuring Judicial Independence The Political Economy Of Judging In Japan Free and Paid eBooks
  - Measuring Judicial Independence The Political Economy Of Judging In Japan Public Domain eBooks
  - Measuring Judicial Independence The Political Economy Of Judging In Japan eBook Subscription Services
  - Measuring Judicial Independence The Political Economy Of Judging In Japan Budget-Friendly Options

6. Navigating Measuring Judicial Independence The Political Economy Of Judging In Japan eBook Formats
  - ePub, PDF, MOBI, and More
  - Measuring Judicial Independence The Political Economy Of Judging In Japan Compatibility with Devices
  - Measuring Judicial Independence The Political Economy Of Judging In Japan Enhanced eBook Features
7. Enhancing Your Reading Experience
  - Adjustable Fonts and Text Sizes of Measuring Judicial Independence The Political Economy Of Judging In Japan
  - Highlighting and Note-Taking Measuring Judicial Independence The Political Economy Of Judging In Japan
  - Interactive Elements Measuring Judicial Independence The Political Economy Of Judging In Japan
8. Staying Engaged with Measuring Judicial Independence The Political Economy Of Judging In Japan
  - Joining Online Reading Communities
  - Participating in Virtual Book Clubs
  - Following Authors and Publishers Measuring Judicial Independence The Political Economy Of Judging In Japan
9. Balancing eBooks and Physical Books Measuring Judicial Independence The Political Economy Of Judging In Japan
  - Benefits of a Digital Library
  - Creating a Diverse Reading Collection Measuring Judicial Independence The Political Economy Of Judging In Japan
10. Overcoming Reading Challenges
  - Dealing with Digital Eye Strain
  - Minimizing Distractions
  - Managing Screen Time
11. Cultivating a Reading Routine Measuring Judicial Independence The Political Economy Of Judging In Japan
  - Setting Reading Goals Measuring Judicial Independence The Political Economy Of Judging In Japan
  - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Measuring Judicial Independence The Political Economy Of Judging In Japan
  - Fact-Checking eBook Content of Measuring Judicial Independence The Political Economy Of Judging In Japan
  - Distinguishing Credible Sources
13. Promoting Lifelong Learning
  - Utilizing eBooks for Skill Development
  - Exploring Educational eBooks
14. Embracing eBook Trends



- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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