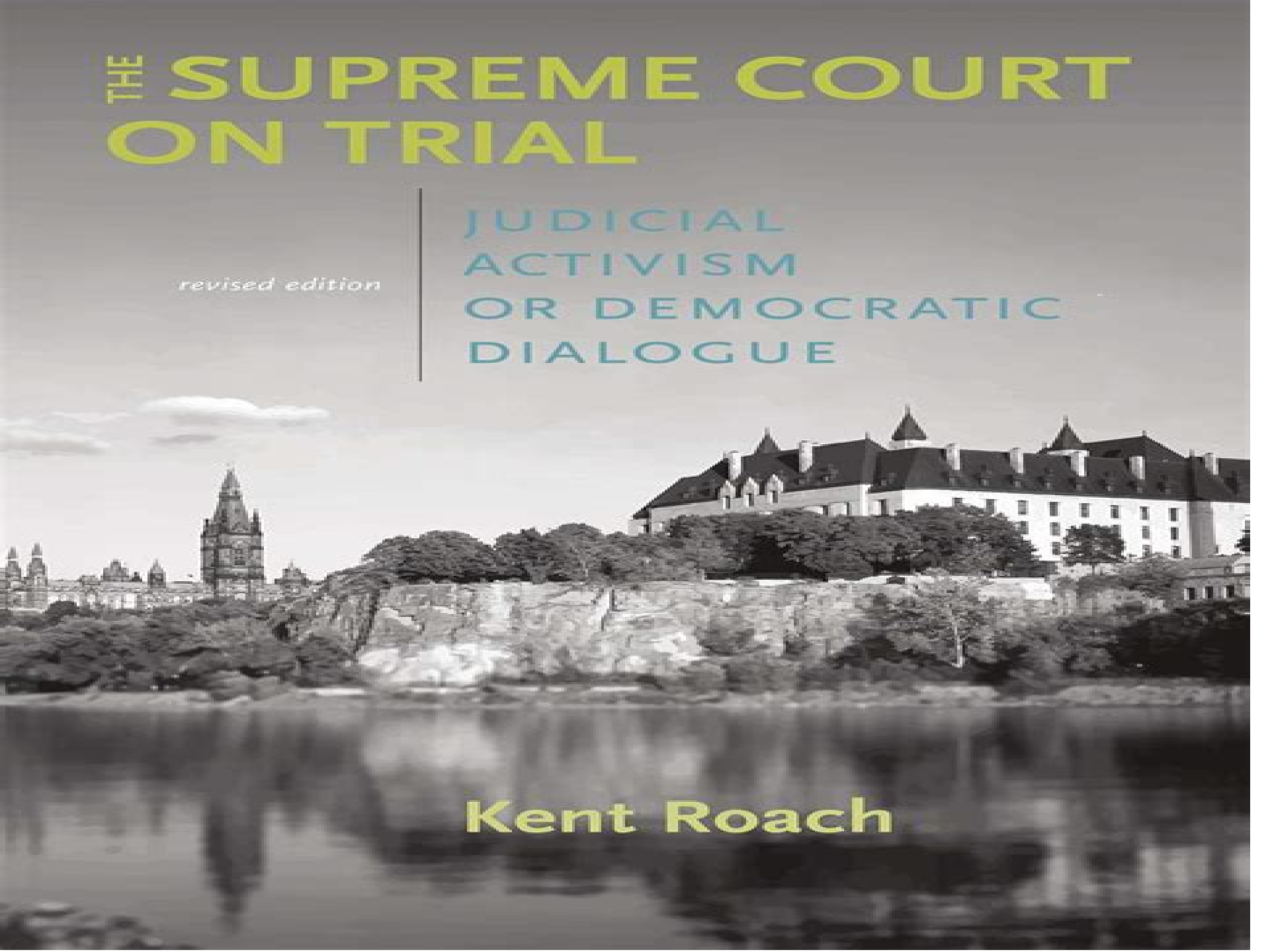


# THE SUPREME COURT ON TRIAL

*revised edition*

JUDICIAL  
ACTIVISM  
OR DEMOCRATIC  
DIALOGUE

Kent Roach



# Supreme Court On Trial Judicial Activism Or Democratic Dialogue

**CHUNG Wai Man, Franco**



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critique by distinguished scholars of law and political science of its effect on democracy judicial power and the place of Quebec and Aboriginal peoples in Canada Employing a diversity of methodological approaches contributors explore three themes governance and institutions policy making and the courts and citizenship and identity politics The influence of the Charter has been profound they conclude but has it been beneficial This thoughtful volume shifts the focus of debate from the Charter s appropriateness to its impact for better or worse on political institutions public policy and conceptions of citizenship The Future of Economic and Social Rights Katharine G. Young,2019-04-11 Captures significant transformations in the theory and practice of economic and social rights in constitutional and human rights law

**Boundaries of State, Boundaries of Rights** Tsvi Kahana,Anat Scolnicov,2016-10-20 This collection of essays draws together innovative scholars to examine the relationship between two legal and political phenomena the shrinking of the state as a monopoly of power in favour of the expansion of power over individuals in private hands and the change in the nature of rights The authors expertly discuss the implications of the changing boundaries of state power the legal responses to this development its application to human rights and re conceptualizations of public life as obligations are handed over to private hands This innovative book deals with an important set of problems and offers a fresh perspective of different legal themes in an integrated fashion Reconsidering the Institutions of Canadian Federalism J. Peter Meekison,Hamish Telford,Harvey Lazar,2004 Beginning with an examination of the role of traditional institutions such as Parliament Cabinet the Supreme Court and political parties Canada State of the Federation 2002 affirms the long held belief that these bodies do not provide effective forums for interregional bargaining creating a void that has been filled at least in part by executive federalism Contributors conclude that the performance of traditional institutions taken as a whole has deteriorated over the last several decades placing more pressure on the processes of executive federalism **Controversies in the Common Law** Vanessa Gruben,Graham Mayeda,Owen Rees,2022-10-03 Beverley McLachlin was the first woman to be Chief Justice of the Supreme Court of Canada Joining the Court while it was establishing its approach to the Canadian Charter of Rights and Freedoms McLachlin aided the court in weathering the public backlash against controversial decisions during her tenure *Controversies in the Common Law* explores Chief Justice McLachlin s approach to legal reasoning examines her remarkable contributions in controversial areas of the common law and highlights the role of judicial philosophy in shaping the law Chapters in this book span thirty years and deal with a variety of topics including tort unjust enrichment administrative and criminal law The contributors show that McLachlin had a philosophical streak that drove her to ensure unity and consistency in the common law and to prefer incremental change over revolution Celebrating the career of an influential jurist *Controversies in the Common Law* demonstrates how the common law approach taken by Chief Justice McLachlin has been successful in managing criticism and ensuring the legitimacy of the Court *Bills of Rights* Mark Tushnet,2017-07-05 This collection examines the justifications for using bills of rights to protect fundamental human rights and the mechanisms for

enforcing provisions in those documents Articles deal with different forms of judicial enforcement and with legislative enforcement of rights protected by such documents The collection includes a road map for evaluating the effectiveness of these alternative enforcement mechanisms      The Legal Protection of Human Rights Tom Campbell, Keith D. Ewing, Adam Tomkins, 2011 The value and legitimacy of using courts to limit the powers of governments in the domain of human rights is a significant ongoing debate This book provides a critical review that explores the alternative means for protecting and promoting human rights This group of twenty four leading human rights scholars from around the world present a variety of perspectives on the disappointing human rights outcomes of recent institutional developments and consider the prospects of reviving the moral force and political implications of human rights values      *The Politics of the Charter* Andrew Petter, 2010-01-01 Andrew Petter is a leading constitutional scholar who served from 1991 to 2001 as a British Columbia MLA and cabinet minister including Attorney General In *The Politics of the Charter* Petter assembles a set of his original essays written over three decades to provide a coherent critique of the political nature impact and legitimacy of the Canadian Charter of Rights and Freedoms Showing how Charter rights have been shaped by the institutional character of the courts and by the ideological demands of liberal legalism the essays contend that the Charter has diverted progressive political energies and facilitated the rise of neo conservatism in Canada Drawing upon his constitutional expertise and political experience Petter evaluates the Charter in practical legal and philosophical terms These essays along with a new introduction and conclusion map out Petter's political philosophy and review the entirety of the Charter record *The Politics of the Charter* is vividly written free of legal jargon accessible to a broad readership and will provoke renewed discussion about how best to achieve a more compassionate and egalitarian Canadian society      *Children's Socio-Economic Rights, Democracy And The Courts* Aoife Nolan, 2011-09-15 This book is concerned with children's economic and social rights sometimes referred to simply as children's social rights Despite increased academic interest in both children's rights and socio economic rights over the last two decades children's social and economic rights remain a comparatively neglected area This is particularly true with regard to the role of the courts in the enforcement of such social rights Aoife Nolan's book remedies this omission focussing on the circumstances in which the courts can and should give effect to the social and economic rights of children The arguments put forward are located within the context of and develop long standing debates in constitutional law democratic theory and human rights The claims made by the author are supported and illustrated by concrete examples of judicial enforcement of children's social and economic rights from a variety of jurisdictions The work is thus rooted in both theory and practice The author brings together and addresses a wide range of issues that have never previously been considered together in book form These include children's socio economic rights children as citizens and their position in relation to democratic decision making processes the implications of children and their rights for democratic and constitutional theory the role of the courts in ensuring the enforcement of children's rights and the debates surrounding

the litigation and adjudication of social and economic rights This book thus represents a major original contribution to the existing scholarship in a range of areas including human and specifically social rights legal and political theory and constitutional law Children's rights were often thought to be synonymous with economic and social welfare prior to the adoption of the Convention on the Rights of the Child in 1989 Ironically since that time remarkably little scholarship has been devoted to the vitally important economic and social rights dimensions of children's rights Nolan's book singlehandedly remedies that neglect and does so in a sophisticated nuanced and balanced way It provides a superb account of the pros and cons of judicial activism in promoting these rights Philip Alston John Norton Pomeroy Professor NYU Law School Thus far the burgeoning literature on the judicial enforcement of socio economic rights has failed to engage in a sustained systemic manner with this topic from the perspective of children and the complexity of their status as citizens within contemporary democracies This book fills this gap and makes a major contribution to the literature in the three interrelated areas of the judicial review of socio economic rights claims children's rights and democratic theory Nolan navigates skilfully through the dense but rich literature in these areas as well as relevant international and comparative law In so doing she illuminates both the pitfalls and potential of resorting to courts in a partial response to the multifaceted and deeply entrenched global phenomenon of child poverty Professor Sandra Liebenberg HF Oppenheimer Professor of Human Rights Law University of Stellenbosch Law Faculty Winner of the Kevin Boyle Book Prize 2012 awarded by the Irish Association of Law Teachers to a book that is deemed to have made an outstanding contribution to the understanding of law

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