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# SPECIALIZED JUSTICE

Courts, Administrative Tribunals,  
and a Cross-National Theory of  
Specialization

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# Specialized Justice Courts Administrative Tribunals And A Cross National Theory Of Specialization

**Robert Thomas**



## **Specialized Justice Courts Administrative Tribunals And A Cross National Theory Of Specialization:**

**Specialized Justice** Stephen H. Legomsky, 1990 Specialized Justice addresses the question of the desirability of specialization in the administration of justice Should there be more rather than less sub division of the judiciary into specialized tribunals What is most desirable in terms of efficiency speed true justice and cost The author attempts to answer these questions both by examining theoretical paradigms and also by describing the results of an empirical study which he has undertaken He concludes by examining variables that apply in different jurisdictions and which should if accounted for properly allow generalized lessons to be extracted from the individual studies Administrative Tribunals and Adjudication Peter Cane, 2009-08-03 Among the many constitutional developments of the past century or so one of the most significant has been the creation and proliferation of institutions that perform functions similar to those performed by courts but which are considered to be and in some ways are different and distinct from courts as traditionally conceived In much of the common law world such institutions are called administrative tribunals Their main function is to adjudicate disputes between citizens and the state by reviewing decisions of government agencies a function also performed by courts in judicial review proceedings and appeals Although tribunals in aggregate adjudicate many more such disputes than courts tribunals and their role as dispensers of administrative justice receive relatively little scholarly attention This wide ranging book length treatment of the subject compares tribunals in three major jurisdictions Australia the UK and the US It analyses and offers an account of the concept of administrative adjudication and traces its historical development from the earliest periods of the common law to the twenty first century There are chapters dealing with the design of tribunals and tribunal systems and with what tribunals do what they are for and how they interact with their users The book ends with a discussion of the place of tribunals in the administrative justice system and speculation about possible future developments Administrative Tribunals and Adjudication fills a significant gap in the literature and will be of great value to public lawyers and others interested in government accountability Reconstructing Judicial Review Sarah Nason, 2016-12-01 This book offers a new interpretation of judicial review in England and Wales as being concerned with the advancement of justice and good governance as opposed to being concerned primarily with ultra vires or common law constitutionalism It is developed both from examining the functions and values that ought to be served by judicial review and from analysis of empirical social facts about judicial review primarily as experienced in the Administrative Court Based on ground up case law analysis it constructs a new taxonomy on the grounds of judicial review mistake procedural impropriety ordinary common law statutory interpretation discretionary impropriety relevant irrelevant considerations breach of an ECHR protected right or equality duty and constitutional allocation of powers constitutional rights or other complex constitutional principles It explains each of these grounds what academic and judicial support there might be for them outside case law analysis and their similarities and differences when viewed against popular existing taxonomies It concludes that Administrative Court judges are engaged in

ordinary common law statutory interpretation in approximately half of all cases and that where discretionary judgement is involved on the part of the initial decision maker judges do indeed consider their task to be one of determining whether the challenged decision was justified by reasoning of adequate quality It finds that judges apply ordinary common law principles of statutory interpretation with historical pedigrees including assessing the initial decision maker's reasoning with reference to statutory purpose and sifting relevant from irrelevant considerations including moral considerations The result is a ground breaking reassessment of the grounds of judicial review in England and Wales and the practice of the Administrative Court

**Routledge Handbook of Judicial Behavior** Robert M. Howard, Kirk A. Randazzo, 2017-10-02 Interest in social science and empirical analyses of law courts and specifically the politics of judges has never been higher or more salient Consequently there is a strong need for theoretical work on the research that focuses on courts judges and the judicial process The Routledge Handbook of Judicial Behavior provides the most up to date examination of scholarship across the entire spectrum of judicial politics and behavior written by a combination of currently prominent scholars and the emergent next generation of researchers Unlike almost all other volumes this Handbook examines judicial behavior from both an American and Comparative perspective Part 1 provides a broad overview of the dominant Theoretical and Methodological perspectives used to examine and understand judicial behavior Part 2 offers an in depth analysis of the various current scholarly areas examining the U S Supreme Court Part 3 moves from the Supreme Court to examining other U S federal and state courts and Part 4 presents a comprehensive overview of Comparative Judicial Politics and Transnational Courts Each author in this volume provides perspectives on the most current methodological and substantive approaches in their respective areas along with suggestions for future research The chapters contained within will generate additional scholarly and public interest by focusing on topics most salient to the academic legal and policy communities

*Courts, Justice, and Efficiency* Hector Fix-Fierro, 2004-01-06 This study explores the socio legal context of economic rationality in the legal and judicial systems It examines the meaning and relevance of the concept of efficiency for the operation of courts and court systems seeking to answer questions such as in what sense can we say that the adjudicative process works efficiently What are the relevant criteria for the measurement and assessment of court efficiency Should the courts try to operate efficiently and to what extent is this viable What is the proper relationship between efficiency and justice considerations in a judicial proceeding To answer these questions a conceptual framework is developed on the basis of empirical studies and surveys carried out mainly in the United States Western Europe and Latin America Two basic ideas emerge from it First economic rationality has penetrated the legal and judicial systems at all levels and dimensions from the level of society as a whole to the day to day operation of the courts from the institutional dimension of adjudication to the organizational context of judicial decisions Far from being an alien value in the judicial process efficiency has become an inseparable part of the structure of expectations we place on the legal system Second economic rationality is not the prevalent value in legal decision making as

it is subject to all kinds of constraints local conditions and concrete negotiations with other values and interests **The Oxford Handbook of Comparative Administrative Law** Peter Cane,Herwig Hofmann,Eric C. Ip,Eric Chi Yeung Ip,Peter L. Lindseth,2021 In this Handbook distinguished experts in the field of administrative law discuss a wide range of issues from a comparative perspective The book covers the historical beginnings of comparative administrative law scholarship and discusses important methodological issues and basic concepts such as administrative power and accountability

*Administrative Justice and Asylum Appeals* Robert Thomas,2011-01-18 FIRST PRIZE WINNER OF THE SLS BIRKS PRIZE FOR OUTSTANDING LEGAL SCHOLARSHIP 2011 How are we to assess and evaluate the quality of the tribunal systems that do the day to day work of adjudicating upon the disputes individuals have with government This book examines how the idea of adjudicative quality works in practice by presenting a detailed case study of the tribunal system responsible for determining appeals lodged by foreign nationals who claim that they will be at risk of persecution or ill treatment on return to their country of origin Over recent years the asylum appeal process has become a major area of judicial decision making and the most frequently restructured tribunal system Asylum adjudication is also one of the most difficult areas of decision making in the modern legal system Integrating empirical research with legal analysis this book provides an in depth study of the development and operation of this tribunal system and of asylum decision making The book examines how this particular appeal process seeks to mediate the tension between the competing values under which it operates There are chapters examining the organisation of the tribunal system its procedures the nature of fact finding in asylum cases and the operation of onward rights of challenge An examination as to how the tensions inherent in the idea of administrative justice are manifested in the context of a tribunal system responsible for making potentially life or death decisions this book fills a gap in the literature and will be of value to those interested in administrative law and asylum adjudication **Immigration**

**Litigation Reduction** United States. Congress. Senate. Committee on the Judiciary,2006 *Finance, Law, and the Courts* Marco Lamandini,David Ramos Muñoz,2023-11-09 Law and courts are often neglected in finance The discipline is so permeated by economic analysis the enforcement of its rules so based on regulatory authorities that it often seems more natural to speak of financial regulation rather than financial law de emphasizing the role of courts Authored by leading experts in commercial law Finance Law and the Courts goes beyond this limited perspective The book demonstrates that law and courts are essential in providing finance with the certainty it needs to operate and the elasticity it needs to evolve As explored in Part I of the book these benefits result from law s status as an interpretative construct formed by rules and principles a construct shaped by a need for consistency When principles collide courts are often called to solve hard cases and in doing so the Law of Finance evolves Examining such hard cases Parts II and III analyze courts roles in influencing finance s key concepts and principles For Public Law this includes the impact of sovereign immunity separation of powers or individual rights on the justiciability of financial acts central banks mandates and the interplay between regulatory concepts

and fundamental rights For Private Law these include the foundations of liability for misstatements the validity and interpretation of financial contracts and creditor creditor conflict The book further explores the interplay between specialist and generalist courts and other bodies in Part IV concluding with a case for limited specialization of finance justice in the EU Offering a comprehensive legal treatment of finance s regulatory sources this book is an unparalleled resource for law academics practitioners and policymakers seeking to better understand the complex financial cases that they may encounter

**Access to Justice** Ellie Palmer, Tom Cornford, Yseult Marique, Audrey Guinchard, 2016-01-28 Building on a series of ESRC funded seminars this edited collection of expert papers by academics and practitioners is concerned with access to civil and administrative justice in constitutional democracies where for the past decade governments have reassessed their priorities for funding legal services embracing new technologies that reconfigure the delivery and very concept of legal services cutting legal aid budgets and introducing putative cost cutting measures for the administration of courts tribunals and established systems for the delivery of legal advice and assistance Without underplaying the future potential of technological innovation or the need for a fair and rational system for the prioritisation and funding of legal services the book questions whether the absolutist approach to the dictates of austerity and the promise of new technologies that have driven the Coalition Government s policy can be squared with obligations to protect the fundamental right of access to justice in the unwritten constitution of the United Kingdom

*Reimagining Courts* Victor E Flango, Thomas M Clarke, 2015 In their timely and topical book *Reimagining Courts* Victor Flango and Thomas Clarke argue that courts are a victim of their own success Disputes that once were resolved either informally in the family or within the community are now handled mainly by courts which strains government agency resources The authors offer provocative suggestions for a thorough overhaul of American state and local courts one that better fits the needs of a twenty first century legal system *Reimagining Courts* recommends a triage process based upon case characteristics litigant goals and resolution processes Courts must fundamentally reorganize their business processes around the concept of the litigant as a customer Each adjudication process that the authors propose requires a different case management process and different amounts of judicial staff and facility resources *Reimagining Courts* should spark much needed debate This book will be of significant interest to lawyers judges and professionals in the court system as well as to scholars in public administration and political science

**Tiger by the Tail** Mark A. Groombridge, Claude E. Barfield, 1999 Prospects for the accession of the People s Republic of China to the World Trade Organization in the near future have diminished considerably Recently many policymakers predicted that the PRC would most likely enter the WTO no later than 1999 or 2000 Given a variety of recent economic and political developments in both Asia and the West particularly the United States it now seems likely that the negotiations concerning China s accession will be much more protracted

*Constitutionalism and Legal Change in Myanmar* Andrew Harding, Khin Khin Oo, 2017-01-26 Myanmar s Constitution of 2008 was the road map for the reform process that began in 2011 Despite extensive criticism of

this Constitution for its emphasis on the role of the military much progress has been made towards constitutional government and law reform With the election of the opposition NLD to government in the general election of November 2015 and the presidential electoral college election of March 2016 now is the time to consider the Constitution and prospects and needs for constitutional change as Myanmar moves towards democracy and the rule of law Much has been made of the Constitution's rigidity which is seen as an obstacle to reform and inconsistent with embracing the rule of law human rights and multi party democracy especially with a rapidly transforming state and society Nonetheless the Constitution is also seen as having potential to be a very positive force for reform Many issues arise now for constitutionalism and constitutional change presidency federalism and territorial governance the status of minorities and freedom of religion civil liberties in what is described as a discipline flourishing democracy the courts justice and the rule of law the electoral system and many more This book is an attempt to gauge the extent and potential for the entrenchment of constitutionalism in Myanmar in a rapidly changing environment

Judging Law and Policy Robert M. Howard, Amy Steigerwalt, 2012-03-22 To what extent do courts make social and public policy and influence policy change This innovative text analyzes this question generally and in seven distinct policy areas that play out in both federal and state courts tax policy environmental policy reproductive rights sex equality affirmative action school finance and same sex marriage The authors address these issues through the twin lenses of how state and federal courts must and do interact with the other branches of government and whether judicial policy making is a form of activist judging Each chapter uncovers the policymaking aspects of judicial process by investigating the current state of the law the extent of court involvement in policy change the responses of other governmental entities and outside actors and the factors which influenced the degree of implementation and impact of the relevant court decisions Throughout the book Howard and Steigerwalt examine and analyze the literature on judicial policy making as well as evaluate existing measures of judicial ideology judicial activism court and legal policy formation policy change and policy impact This unique text offers new insights and areas to research in this important field of American politics

**Refugee Roulette** Jaya Ramji-Nogales, Andrew I. Schoenholtz, Philip G. Schrag, 2011-04-29 The first analysis of decisions at all four levels of the asylum adjudication process the Department of Homeland Security the immigration courts the Board of Immigration Appeals and the United States Courts of Appeals The data reveal tremendous disparities in asylum approval rates even when different adjudicators in the same office each considered large numbers of applications from nationals of the same country After providing a thorough empirical analysis the authors make recommendations for future reform From publisher description

**Journal of the National Association of Administrative Law Judiciary**, 2006 The Global Limits of Competition Law D. Daniel Sokol, Ioannis Lianos, 2012-06-13 Over the last three decades the field of antitrust law has grown increasingly prominent and more than one hundred countries have enacted competition law statutes As competition law expands to jurisdictions with very different economic social cultural and institutional backgrounds the debates over its usefulness have

similarly evolved This book the first in a new series on global competition law critically assesses the importance of competition law its development and modern practice and the global limits that have emerged This volume will be a key resource to both scholars and practitioners interested in antitrust competition law economics business strategy and administrative sciences      **Children Without a State** Jacqueline Bhabha,2011 This text identifies three contemporary manifestations of stateless legal statelessness de facto statelessness and effective statelessness The book provides a variety of examples including chapters on Palestinian children in Israel including undocumented young people seeking higher education in the United States      *Korean Journal of Comparative Law* ,1999      **Special Symposium Issue** ,2009



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