



Judges and Democratization: Judicial Independence in New Democracies

B. C. Smith

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Judiciaries must be politically impartial and immune from political interference if democracy is to be consolidated in countries in transition from authoritarian rule. Without an independent judiciary there can be no rule of law, and without the rule of law there can be no democracy. *Judges and Democratization* is based on the premise that democracy cannot be consolidated without the rule of law of which judicial independence is an indispensable part. It pays particular attention to the restraints placed upon judicial independence, and the reforms which are being applied, or remain to be adopted, in order to guard against the different kinds of interference which prevent judicial decisions being taken in a wholly impartial way. It examines the paradox of judicial activism arising from the independence endowed upon the judiciary by post-authoritarian constitutions. Judicial activism raises concerns that the legitimate authority of elected legislatures is being usurped. Consequently, demands have been voiced to make the judiciary more accountable. *Judges and Democratization* asks how such accountability can be made compatible with the preservation of judicial independence when the concept of an accountable independent judiciary appears to be a contradiction in terms.

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