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# Research Resources for Judicial Independence and LGBT Rights Symposium

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# Resources for Judicial Independence and LGBT Rights Symposium

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Articles (#articles) Web Sites (#websites) Books (#books)

## Articles on Judicial Independence

### Iowa Election

- Influence of Special Interests Felt in State Courts (sites/default/files/lawlibrary/influence_of_special_interests_felt_in_state_courts_1-2011.pdf) (USA Today 1-28-11)
- Judging the Judges: Landmark Iowa Elections Send a Tremor Through the Judicial Retention System (sites/default/files/lawlibrary/iowa_js_aba_art_retention_tremors_1-2011.pdf) (ABA Journal Jan. 2011)
- What Happened in Iowa? (sites/default/files/lawlibrary/posen_what_happened_in_iowa_col_lr_6-2011.pdf) David Pozen, (June 05, 2011). Columbia Law Review Sidebar, Vol. 111, pp. 90-102, 2011. (SSRN)
- Letters from Iowa: Same-Sex Marriage and the Ouster of Three Justices (sites/default/files/lawlibrary/pettys_letters_from_iowa_re_ouster_of_3_js_2011.pdf) . Todd E. Pettys. (December 6, 2010). Kansas Law Review, Forthcoming; U Iowa Legal Studies Research Paper No.

## Websites of U.S. and International Organizations Promoting Judicial Independence

American Bar Association Standing Committee on Judicial Independence (http://www.abanet.org/judind/home.html) – Standing Committee on Judicial Independence serves as the ABA's clearinghouse for information and resources designed to protect the independence of the judiciary, improve public understanding of, and confidence in, the judiciary, and promote the importance of an accountable, efficient and effective judicial system.

American Judicature Society (http://www.ajs.org/) – The American Judicature Society (AJS) works to maintain the independence and integrity of the courts and increase public understanding of the justice system. It is a nonpartisan organization with a national membership of judges, lawyers and other citizens interested in the administration of justice.

Basic Principles on the Independence of the Judiciary

10-39. (SSRN)

**Judicial Independence - United States**

- Judicial Independence and the Lesson of History. (/sites/default/files/lawlibrary/judge_pryor_-jud_indep_and_lesson_of_history.pdf) Honorable William H. Pryor, Jr., (September 2007). *Alabama Lawyer.*
- Framing Change: Cause Lawyering, Constitutional Decisions, and Social Change (/sites/default/files/lawlibrary/ziegler_framing_change.pdf) , Mary Ziegler, 94 Marq. L. Rev. 263 (2010) (Issue 1 2010). (via Marquette's BePress site)
- Flexing Judicial Muscle: An Empirical Study of Judicial Activism in the Federal Courts (/sites/default/files/lawlibrary/yung_empirical_study_fed_js_activism_wtr_2011.pdf) , Corey Rayburn Yung, (January 14, 2010). Northwestern University Law Review, Vol. 105, No. 1, 2011; 5th Annual Conference on Empirical Legal Studies Paper. (SSRN)
- Judicial Activism Conservative Justices (sites/default/files/lawlibrary/judicial_activism.pdf) (editorial), Sheldon Whitehouse, *National Law Journal* Nov. 1, 2010

**Judicial Independence - International**

- Universal Declaration of Human Rights (/sites/default/files/lawlibrary/universal_declaration_of_human_rts.pdf)
- Judicial Independence and Human Rights Protection Around the World (/sites/default/files/lawlibrary/keith_-_jud_indep_and_human_rts.pdf) Linda Camp Keith, 85 Judicature 195 (No. 4 Jan. Feb 2002)
- Judicial Activism in the European Court of Justice - The Case of LGBT Rights (/sites/default/files/lawlibrary/jud_activism_lgbt_european_courts_2011.pdf) Henri de Waele, Anna van der Vleuten , Journal of International Law and Practice (2011), Vol. 19, Issue 03, pp. 639-666

**Additional Resources on Judicial Independence -**

(http://www2.ohchr.org/english/law/indjudiciary.htm) , United Nations Office of the High Commissioner for Human Rights – Basic principles formulated to assist Member States in their task of securing and promoting the independence of the judiciary to be incorporated and respected within the framework of national legislation and practice. These principles were adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and were endorsed by General Assembly in 1985.

Beijing Statement of Principles of the Independence of the Judiciary in the LAWASIA Region (http://lawasia.asn.au/objectlibrary/147?filename=Beijing%20Statement.pdf) – Drafted in 1997 -- and eventually signed by more than 32 Chief Justices within the Asia/Pacific region -- this statement of principles represents an attempt by signatories to set aside differences in legal traditions in order to articulate the minimum standards believed necessary to maintain independent and effective judiciaries.

ICJ Practitioner's Guide (http://www.mafhoum.com/pres7/230S24.pdf) – Produced by the International Commission of Jurists (ICJ), this Practitioner's Guide offers practical insight on the international principles governing the independence and accountability of judges, lawyers, and prosecutors. It also presents the most relevant and current international standards on the topic.

Judicial Independence in the United States (http://www.fjc.gov/public/pdf.nsf/lookup/JudIndep.pdf/$file/JudIndep.pdf) (pdf) – The provisions in the United States to promote judicial independence on the one hand and to promote democratic control of the judiciary on the other may be arrayed on a continuum. This paper describes the mechanisms employed in the United States to protect and balance independence and accountability.

Judicial Independence Talking Points (http://www.fjc.gov/history/talking.html) (FJC History Office) – A link to the FJC website with talking points on (1) Constitutional Origins of the Federal Judiciary; (2) Judicial Independence; and (3) Establishing a Federal Judiciary.

## Books

There are hundreds of books on the topic of judicial independence. The ones listed below are among the best respected in the field.

- Harold Baer, Jr., Judges Under Fire: Human Rights, Independent Judges, and the Rule of Law (2011)
- Lawrence Baum, Judges and Their Audiences: A Perspective on Judicial Behavior(2008)
- Raoul Berger, Government by Judiciary: The Transformation of the Fourteenth Amendment (1977)
- Chris W. Bonneau and Melinda Gann Hall, In Defense of Judicial Elections (2009)
- Dr. Stephen B. Burbank and Professor Barry Friedman, Judicial Independence at the Crossroads: An Interdisciplinary Approach (2002)
- Benjamin N. Cardozo, The Nature of the Judicial Process (1921)
- Frank B. Cross,Decision Making in the U.S. Courts of Appeals (2007)
- John Hart Ely, Democracy and Distrust (1980)
- Barry Friedman, The Will of the People: How Public Opinion Has Influenced the Supreme Court and Shaped the Meaning of the Constitution (2009)
- Frederick P. Lewis, The Context of Judicial Activism, The Endurance of The Warren Court Legacy in a Conservative Era(1999)
- Kevin L. Lyles, The Gatekeepers: Federal District Courts in the Political Process (1997)
- Thomas R. Marshall, Public Opinion and the Rehnquist Court (2008)
- Thomas A. Marvell, Appellate Courts and Lawyers: Information Gathering in the Adversary System (1978)
- Patrick B. McGuigan & Jeffrey P. O'Connell eds., The Judges War: The Senate, Legal Culture, Political Ideology and Judicial Confirmation (1987)
- Richard L. Pacelle Jr., The Role of the Supreme Court in American Politics – The Least Dangerous Branch? (2002)

Universal Charter of the Judge (http://www.iaj-uim.org/old/ENG/frameset_ENG.html) – Drafted by judges from around the world, and unanimously approved by the Central Council of the International Association of Judges, the Charter outlines the minimal norms and expectations needed for the maintenance of judicial independence.

USAID Office of Democracy and Governance: Guidance for Promoting Judicial Independence and Impartiality (http://www.usaid.gov/our_work/democracy_and_governance/publications/pdfs/pnacm007.pdf) (pdf) – This guide, from the USAID website, that seeks to promote understanding of the issues surrounding judicial independence and assist USAID and other donors, in collaboration with their local counterparts, to design and implement programs that effectively strengthen judicial independence.

O`Connor Judicial Selection Initiative. (http://www.du.edu/legalinstitute/judicial_selection.html?utm_source=BenchmarkEmail&utm_campaign=Judicial%20Selection%20Site%20Launch&utm_medium=email) *Institute for the Advancement of the American Legal System, University of Denver* On December 8, 2009, Justice Sandra Day O'Connor (retired) launched the O'Connor Judicial Selection Initiative. The Initiative seeks to foster change in state judicial selection systems nationwide, and focuses on best practices for states. The Initiative advocates a judicial selection model consisting of four components that represent elements from both an appointment and an election model of judicial selection. The four components include: commission; appointment; performance evaluation; and retention election.

- Richard Posner, How Judges Think (2008)
- C. Herman Pritchett, The Roosevelt Court: A Study in Judicial Politics and Values, 1937-1947 (1948)
- William J. Quirk and R. Randall Bridwell, Judicial Dictatorship (1995)
- Gerald Rosenberg, The Hollow Hope: Can Courts Bring About Social Change? (1991)
- C.K. Rowland & Robert A. Carp, Politics & Judgment in Federal District Courts (1996)
- Andres Sawicki, Cass R. Sunstein, David Schkade and Lisa M.Ellman, Are Judges Political? An Empirical Analysis of the Federal Judiciary (2006)
- Glendon Schubert, The Judicial Mind Revisited, Psychometric Analysis of Supreme Court Ideology (1974)
- Martin M. Shapiro, The Supreme Court and Public Policy (1969)
- Brian Z. Tamanaha, Beyond the Formalist-Realist Divide: The Role of Politics in Judging (2010)
- G. Alan Tarr, Judicial Process and Judicial Policymaking (2009)

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(https://www.addthis.com/bookmark.php?v=300&winname=addthis&pub=xa-4e2cfd1147868c4e&source=tbx-300&lng=en&s=delicious&url=https%3A%2F%2Fwww.law.csuohio.edu%2Flawlibrary%2Fguides%2Fsexualorientation%2Fjudicial_independence%23node-1139&title=Resources%20for%20Judicial%20Independence%20and%20LGBT%20Rights%20Symposium%20%7C%20Cleveland-Marshall%20College%20of%20Law&ate=AT-xa-4e2cfd1147868c4e/-/-/522a49620e24fdce/2&frommenu=1&uid=522a4962e5e2a231&ct=1&uct=1&ui_cobrand=%3Cb%3EC%7CM%7CLAW%3C%2Fb%3E&pre=https%3A%2F%2Fwww.law.csuohio.edu%2Fadmin%2Fcontent%2Ffilter%3Fpage%3D4&tt=0&captcha_provider=nucaptcha)

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*Last edited by* Sue Altmeyer *(/user/19)* on Mon, 09/12/2011 - 12:03pm