

Thinking Under Uncertainty

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Judging Under Uncertainty Judging Under Uncertainty

Michal Bobek



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Judging Under Uncertainty Adrian Vermeule, 2006 In this book Adrian Vermeule shows that any approach to legal interpretation rests on institutional and empirical premises about the capacities of judges and the systemic effects of their rulings He argues that legal interpretation is above all an exercise in decisionmaking under severe empirical uncertainty

Judging Under Uncertainty, 2010 **Harvard Law Review: Volume 128, Number 1 - November 2014** Harvard Law Review, 2014-11-10 The November issue is the special annual review of the U S Supreme Court's previous Term Each year the issue is introduced by noteworthy and extensive contributions from recognized scholars In this issue for the 2013 Term articles include Foreword The Means of Constitutional Power by John F Manning Comment Slipping the Bonds of Federalism by Heather K Gerken Comment The Supreme Court as a Constitutional Court by Jamal Greene Comment The Hobby Lobby Moment by Paul Horwitz In addition the first issue of each new volume provides an extensive summary of the important cases of the previous Supreme Court docket covering a wide range of legal political and constitutional subjects Student commentary on Leading Cases of the 2013 Term includes recent cases on content neutrality under the First Amendment compelled subsidized speech free speech and contribution limits legislative prayer and the establishment of religion search and seizure law as to anonymous tips cellphones and cotenant consent equal protection and political process right to counsel Eighth Amendment issues for intellectually impaired defendants standing and jurisdiction class actions tribal immunity the Clean Air Act immigration of children misrepresentation of buyer and gun control law and copyright law s Transmit Clause Complete statistical graphs and tables of the Court's actions and results during the Term are included Finally the issue features several summaries of Recent Publications The issue also features essays on substantive and procedural law and judicial method honoring Justice Stephen G Breyer and his notable contributions to law and the Supreme Court The essays are written by scholars Martha Minow Martha Field Cass Sunstein Richard Fallon Michael Klarman Todd Rakoff Joseph Singer John Manning Laurence Tribe I Glenn Cohen and Mark Tushnet The Harvard Law Review is offered in a quality digital edition featuring active Contents linked footnotes active URLs legible tables and proper ebook and Bluebook formatting This current issue of the Review is November 2014 the first issue of academic year 2014 2015 Volume 128

Legal Interpretation and Scientific Knowledge David Duarte, Pedro Moniz Lopes, Jorge Silva Sampaio, 2019-09-25 This book discusses the question of whether legal interpretation is a scientific activity The law's dependency on language at least for the usual communication purposes not only makes legal interpretation the main task performed by those whose work involves the law but also an unavoidable step in the process of resolving a legal case This task of decoding the words and sentences used by normative authorities while enacting norms carried out in compliance with the principles and rules of the natural language adopted is prone to all of the difficulties stemming from the uncertainty intrinsic to all linguistic conventions In this context seeking to determine whether legal interpretation can be scientific or in other words can comply

with the requirements for scientific knowledge becomes a central question In fact the coherent application of the law depends on a knowledge regarding the meaning of normative sentences that can be classified at least as being structured systematically organized and tendentially objective Accordingly this book focuses on analyzing precisely these problems its respective contributions offer a range of revealing perspectives on both the problems and their ramifications **The Theory and Practice of Statutory Interpretation** Frank B. Cross, 2008-11-19 Today statutes make up the bulk of the relevant law heard in federal courts and arguably represent the most important source of American law The proper means of judicial interpretation of those statutes have been the subject of great attention and dispute over the years This book provides new insights into the theory and practice of statutory interpretation by courts Cross offers the first comprehensive analysis of statutory interpretation and includes extensive empirical evidence of Supreme Court practice He offers a thorough review of the active disputes over the appropriate approaches to statutory interpretations namely whether courts should rely exclusively on the text or also examine the legislative history The book then considers the use of these approaches by the justices of the recent Rehnquist Court and the degree to which they were applied by the justices either sincerely or in pursuit of an ideological agenda *The Oxford Handbook of International Adjudication* Cesare PR Romano, Karen J Alter, Yuval Shany, 2014-01-16 The post Cold War proliferation of international adjudicatory bodies and increase in litigation has greatly affected international law and politics A growing number of international courts and tribunals exercising jurisdiction over international crimes and sundry international disputes have become in some respects the lynchpin of the international legal system The Oxford Handbook of International Adjudication charts the transformations in international adjudication that took place astride the twentieth and twenty first century bringing together the insight of 47 prominent legal philosophical ethical political and social science scholars Overall the 40 contributions in this Handbook provide an original and comprehensive understanding of the various contemporary forms of international adjudication The Handbook is divided into six parts Part I provides an overview of the origins and evolution of international adjudicatory bodies from the nineteenth century to the present highlighting the dynamics driving the multiplication of international adjudicative bodies and their uneven expansion Part II analyses the main families of international adjudicative bodies providing a detailed study of state to state criminal human rights regional economic and administrative courts and tribunals as well as arbitral tribunals and international compensation bodies Part III lays out the theoretical approaches to international adjudication including those of law political science sociology and philosophy Part IV examines some contemporary issues in international adjudication including the behavior role and effectiveness of international judges and the political constraints that restrict their function as well as the making of international law by international courts and tribunals the relationship between international and domestic adjudicators the election and selection of judges the development of judicial ethical standards and the financing of international courts Part V examines key actors in international adjudication including international judges legal counsel

international prosecutors and registrars Finally Part VI overviews select legal and procedural issues facing international adjudication such as evidence fact finding and experts jurisdiction and admissibility the role of third parties inherent powers and remedies The Handbook is an invaluable and thought provoking resource for scholars and students of international law and political science as well as for legal practitioners at international courts and tribunals

Misreading Law, Misreading Democracy Victoria Nourse, 2016-09-26 Victoria Nourse argues that lawyers must be educated on the basic procedures that define how Congress operates today Lawmaking creates winners and losers If lawyers and judges do not understand this they may embrace the meanings of those who opposed legislation turning legislative losers into judicial winners and standing democracy on its head

Rational Lawmaking under Review Klaus Meßerschmidt, A. Daniel Oliver-Lalana, 2016-07-26 This book explores the constitutional legally binding dimension to jurisprudence in the light of the German Federal Constitutional Court's approach to rational lawmaking Over the last decades this court has been remarkably active in applying jurisprudential criteria and standards when reviewing parliamentary laws It has thus supplied observers with a unique material to analyse the lawmakers duty to legislate rationally and to assess the virtues and drawbacks of this strand of judicial control in a constitutional democracy By bringing together legislation experts and public law scholars to elaborate on jurisprudence under review this contributed volume aspires to shed light on the constitutionalisation of rational lawmaking as a controversial trend gaining ground in both national and international jurisdictions The book is divided into five parts Part I frames the two key issues pervading the whole collection the intricate relationship between judicial review and democracy on the one hand and the possibility of improving and rationalizing the task of legislation under the current circumstances of politics on the other Part II provides an overview of the judicial review of rational lawmaking laying special emphasis on the duty of legislative justification imposed on lawmakers by the German Constitutional Court Part III is devoted to the review of the systemic rationality of legislation in particular to the requirements of legislative consistence and coherence as developed by this court Contributions in Part IV revolve around the judicial scrutiny of the socio empirical elements of rational lawmaking with the control of legislative facts and impacts and the problem of symbolic laws being the central topics Finally Part V draws on the German case law to discuss the links between rational lawmaking balancing and proportionality and the interdependence between process review and substantive review of legislation

Central European Judges Under the European Influence Michal Bobek, 2015-11-19 The onset of the 2004 EU enlargement witnessed a number of predictions being made about the approaches capacity and ability of Central European judges who were soon to join the Union Optimistic voices foreshadowing the deep transformative power that Europe was bound to exercise with respect to the judicial mentality and practice in the new Member States were intertwined with gloomy pictures of post Communist limited formalism and mechanical jurisprudence that could not be reformed which were likely to undermine the very foundations of mutual trust and recognition the judicial system of the Union is built upon Ten years later

this volume revisits these predictions and critically assesses the evolution of Central European judicial mentality institutions and constitutionality under the influence of the EU membership Comparatively evaluating the situation in a number of Central European Member States in their socio legal contexts notably Poland the Czech Republic Slovakia Hungary Slovenia Bulgaria and Romania the volume offers unique insights into the process of non Europeanisation of national legal systems and cultures

Prisoners' Rights John Kleinig, 2017-07-05 This volume brings together a selection of the most important published research articles from the ongoing debate about the moral rights of prisoners The articles consider the moral underpinnings of the debate and include framework discussions for a theory of prisoners rights as well as several international documents which detail the rights of prisoners including women prisoners Finally detailed analysis of the moral bases for particular rights relating to prison conditions covers areas such as health solitary confinement recreation work religious observance library access the use of prisoners in research and the disenfranchisement of prisoners

The Art of Uncertainty Daniel Williams, 2024-03-07 Daniel Williams shows how in a profoundly numerical age Victorian novels imagined thought and action in the face of uncertainty

Conservation and Recreation in Protected Areas Yun Ma, 2016-05-12 This book provides a comprehensive and up to date comparative study of the management and resolution of conflicts between conservation and recreation in protected areas in the US and China Competing claims on the use of nature increasing regulation of land use and recreational activities and the conflicting goals between conservation and development have led to a rise in conflicts in the designation and management of protected areas How to effectively manage and resolve these conflicts has become a challenge for both legislators and managers By adopting an institutional dimension in legal interpretation this book critically examines how such conflicts are dealt with in the legal regimes of the US and China while exploring interactions between legislatures agencies and courts The book searches for a plausible solution to improve the legal framework of protected areas in China by emulating pertinent mechanisms developed in the US whilst also presenting legal and policy recommendations to the US This informative book will be useful for legal scholars in Chinese law nature conservation law administrative law and comparative law

Understanding Regulation Robert Baldwin, Martin Cave, Martin Lodge, 2012 An introduction to the practical and theoretical issues that are central to the study of regulation which a particular focus on contested areas and how they are dealt with

Yearbook Commercial Arbitration Volume XXXV - 2012 Albert Jan Van Den Berg, 2012-12-01 The Yearbook Commercial Arbitration continues its longstanding commitment to serving as a primary resource for the international arbitration community with reporting on arbitral awards and court decisions applying the leading arbitration conventions as well as on arbitration legislation and rules Volume XXXVII 2012 includes excerpts of arbitral awards made under the auspices of the International Chamber of Commerce ICC notes on new and amended arbitration rules including references to their online publication notes on recent developments in arbitration law and practice in Colombia Finland Hungary India Lithuania Montenegro Portugal Singapore South Sudan Tajikistan

Turkey and Venezuela excerpts of 82 court decisions applying the 1958 New York Convention from 22 countries including for the first time cases from Bosnia and Herzegovina Guatemala and Uruguay all indexed by subject matter and linked to the General Editor's published commentaries on the New York Convention an extensive Bibliography of recent books and journals on arbitration The Yearbook is edited by the International Council for Commercial Arbitration ICCA the world's leading organization representing practitioners and academics in the field with the assistance of the Permanent Court of Arbitration The Hague It is an essential tool for lawyers business people and scholars involved in the practice and study of international arbitration

Environmental Law and Economics Klaus Mathis, Bruce R. Huber, 2017-04-07 This anthology discusses important issues surrounding environmental law and economics and provides an in depth analysis of its use in legislation regulation and legal adjudication from a neoclassical and behavioural law and economics perspective Environmental issues raise a vast range of legal questions to what extent is it justifiable to rely on markets and continued technological innovation especially as it relates to present exploitation of scarce resources Or is it necessary for the state to intervene Regulatory instruments are available to create and maintain a more sustainable society command and control regulations restraints Pigovian taxes emission certificates nudging policies etc If regulation in a certain legal field is necessary which policies and methods will most effectively spur sustainable consumption and production in order to protect the environment while mitigating any potential negative impact on economic development Since the related problems are often caused by scarcity of resources economic analysis of law can offer remarkable insights for their resolution Part I underlines the foundations of environmental law and economics Part II analyses the effectiveness of economic instruments and regulations in environmental law Part III is dedicated to the problems of climate change Finally Part IV focuses on tort and criminal law The twenty one chapters in this volume deliver insights into the multifaceted debate surrounding the use of economic instruments in environmental regulation in Europe

Law and the Limits of Reason Adrian Vermeule, 2012-05-24 Law and the Limits of Reason asks what are the consequences of recognizing the limits of reason within the legal system In particular what are the consequences for the allocation of lawmaking authority among judges legislators and administrative agencies or executive officials Vermeule examines the conditions under which the limits of reason support a greater or lesser allocation of authority to one institution or another

Public Epistemic Authority Johann Moritz Laux, 2022-06-29 Inter and supranational courts derive their legitimacy partly from an institutional comparison judges legal expertise and the quality of judicial procedures justify a court's claim to authority towards other branches of government and other courts with overlapping jurisdiction To provide a benchmark for assessing judicial outcomes that is compatible with democratic commitments Johann Laux suggests a new normative category Public Epistemic Authority PEA It builds on the mechanisms behind theories of collective intelligence and empirical research on judicial decision making PEA tracks judges' collective ability to reliably identify breaches of law It focuses on cognitive tasks in adjudication The author

applies PEA to the Court of Justice of the European Union and offers suggestions for improving its institutional design

Nudge and the Law Alberto Alemanno, Anne-Lise Sibony, 2015-09-24 Behavioural sciences help refine our understanding of human decision making Their insights are immensely relevant for policy making since public intervention works much better when it targets real people rather than imaginary beings assumed to be perfectly rational Increasingly governments around the world are keen to rely on those insights for reshaping public interventions in a wide range of policy areas such as energy health financial services and data protection When policy making meets behavioural sciences effective and low cost regulations can emerge in the form of default rules smart disclosure and simplification requirements While behaviourally informed intervention has a huge potential for policymaking it also attracts legitimacy and practicability concerns Nudge and the Law takes a European perspective on those issues and explores the legal implications of the emergent phenomenon of behavioural regulation by focusing on the challenges and opportunities it may offer to EU policy making and beyond

Judgment and Decision Making Under Uncertainty: Descriptive, Normative, and Prescriptive Perspectives

David R. Mandel, Gorka Navarrete, Nathan Dieckmann, Jonathan D. Nelson, 2019-09-26 *The Application of the Precautionary Principle in Practice* Joakim Zander, 2010-08-19 This overview of the role played by the precautionary principle in international trade law European law and national law compares how precautionary considerations have been applied in the fields of pesticide regulation and the regulation of base stations for mobile telephones in Sweden the UK and the US A number of problems in the current application of the precautionary principle are identified and discussed For example it is shown that a firm reliance on a wide and open ended precautionary principle may lead to problems with the consistency foreseeability effectiveness and efficiency of measures intended to reduce environmental or health risks It is suggested that the precautionary principle indeed may be an important tool but that in order to be acceptable it must be coupled with strong requirements on the performance of risk assessments cost benefit analyses and risk trade off analyses

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