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Judicial Independence: Political Influence in Modern Democracies

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Abstract

Judicial independence constitutes a core element of democratic constitutionalism, yet its resilience is increasingly challenged by political influence in modern democracies. This article examines how political actors shape judicial autonomy through institutional mechanisms that formally comply with constitutional frameworks while substantively constraining judicial discretion. Using a qualitative doctrinal and comparative approach, the study integrates theoretical scholarship, cross-national empirical findings, and institutional analysis to explore the relationship between judicial independence and democratic governance. The findings demonstrate that judicial independence is best understood as a dynamic equilibrium between legal authority and political power, rather than as a fixed constitutional attribute. Institutional arrangements governing appointments, judicial councils, budgets, and jurisdiction emerge as central mediators of political influence. The erosion of judicial independence is shown to undermine democratic accountability, public trust, and the protection of rights, contributing to broader patterns of democratic backsliding. The study concludes that safeguarding judicial independence is essential for sustaining democratic legitimacy and preventing the concentration of unchecked political power.

Keywords: Judicial Independence, Political Influence, Modern Democracies, Rule Of Law, Democratic Accountability.



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INTRODUCTION

Judicial independence occupies a central position in constitutional theory and democratic governance, serving as a structural guarantee that courts may adjudicate disputes without subordination to transient political interests. In modern democracies, this principle is increasingly tested by political polarization, executive expansion, and legislative intervention that subtly reshape institutional boundaries. Classical legal scholarship has long emphasized that judicial independence is not merely an institutional arrangement but a normative condition essential to the legitimacy of legal authority (Kaufman, 1980). Contemporary analysis demonstrates that the endurance of this principle depends on complex interactions between legal design, political incentives, and social expectations (Burbank & Friedman, 2002).

The relationship between judicial independence and political power has never been static, as courts inevitably operate within political systems that influence their authority and enforcement capacity. Empirical and theoretical studies illustrate that formal guarantees of independence often coexist with informal mechanisms of political control, ranging from appointment processes to budgetary pressures (Rosenberg, 1992). This tension reveals that independence is not an absolute condition but a variable outcome shaped by institutional resilience and political restraint. As a result, judicial behavior frequently reflects strategic adaptation rather than pure insulation from political forces (Hilbink, 2012).

Comparative research has expanded the understanding of judicial independence by situating it within global patterns of constitutional development. Quantitative measurements across jurisdictions indicate significant variation in both de jure and de facto independence, suggesting that legal texts alone cannot secure judicial autonomy (Linzer & Staton, 2015). These findings challenge assumptions that constitutional entrenchment automatically translates into judicial empowerment. Instead, independence

emerges through sustained political commitment and historical trajectories that reinforce judicial authority over time (Randazzo et al., 2016).

The distinction between formal independence and practical autonomy has become a focal point in contemporary legal scholarship. Studies reassessing the impact of constitutional design reveal that legal provisions may fail to constrain political actors when enforcement mechanisms are weak or contested (Melton & Ginsburg, 2014). Cross-national evaluations further demonstrate inconsistencies in how judicial independence is conceptualized and measured, complicating comparative analysis (Ríos-Figueroa & Staton, 2014). These methodological challenges underscore the necessity of integrating legal, political, and sociological perspectives in assessing judicial independence.

Modern democracies face renewed challenges as political actors increasingly employ lawful mechanisms to influence courts while preserving the appearance of constitutional compliance. Strategic court-packing, jurisdictional restructuring, and politicized disciplinary processes exemplify how influence may be exercised without overt constitutional violation (Fathy & Santika, 2025). Such developments blur the boundary between legitimate institutional reform and political interference. The result is a recalibration of judicial independence that often escapes traditional legal scrutiny.

Historical inquiry into the origins of judicial independence reveals that courts rarely acquire autonomy in isolation from political support. Positive judicial independence has frequently developed through alliances with dominant political coalitions that view courts as instruments of long-term stability (Hilbink, 2012). This historical pattern complicates normative claims that independence requires strict separation from politics. Instead, judicial autonomy may depend on strategic alignment with prevailing political interests that later evolve into institutional self-protection.

The measurement of judicial independence remains a contested endeavor within comparative constitutional studies. Existing indices differ in scope, indicators, and theoretical assumptions, producing divergent assessments of the same judicial systems (Ríos-Figueroa & Staton, 2014). These discrepancies raise concerns regarding the reliability of empirical conclusions drawn from cross-national datasets. A refined analytical framework is therefore necessary to capture both institutional design and political practice in evaluating judicial independence (Linzer & Staton, 2015).

In light of these dynamics, judicial independence must be understood as a fragile equilibrium rather than a fixed constitutional attribute. Political influence persists as an inherent feature of democratic governance, requiring continuous negotiation between judicial authority and democratic accountability (Rosenberg, 1992). The resilience of courts depends not only on legal safeguards but also on political culture, public trust, and institutional self-restraint (Kaufman, 1980). This study situates itself within this scholarly landscape by examining how political influence reshapes judicial independence in modern democracies, contributing to an ongoing reassessment of constitutionalism in practice (Burbank & Friedman, 2002).

RESEARCH METHODS

This study employs a qualitative doctrinal and comparative legal research methodology to examine the dynamics of judicial independence and political influence within modern democratic systems. Primary legal materials, including constitutional provisions, judicial decisions, and institutional frameworks, are systematically analyzed alongside secondary sources such as peer-reviewed journal articles and authoritative legal commentaries to identify prevailing patterns of political interaction with judicial institutions. A comparative approach is applied to selected democratic jurisdictions in order to assess variations between formal legal guarantees and practical manifestations of judicial independence. The analysis is further strengthened through conceptual synthesis, enabling a critical evaluation of theoretical models and empirical findings on judicial autonomy and political power within contemporary constitutional governance.

RESULTS AND DISCUSSION

Conceptual Foundations of Judicial Independence and Political Influence in Modern Democracies

Judicial independence has long been regarded as a foundational pillar of constitutional democracy, embodying the principle that courts must be able to decide cases free from undue interference by political authorities. Classical legal theory situates judicial independence as both an institutional safeguard and a normative commitment to the rule of law, ensuring that legal reasoning

prevails over partisan calculation (Kaufman, 1980). In modern democratic systems, however, judicial independence operates within political environments that inevitably exert pressure on adjudicative processes. This condition produces a persistent tension between legal autonomy and democratic power that shapes the practical meaning of judicial independence (Rosenberg, 1992).

The conceptual understanding of judicial independence extends beyond formal constitutional provisions to include informal practices, political conventions, and social expectations that influence judicial behavior. Comparative scholarship demonstrates that legal guarantees alone rarely determine the actual degree of judicial autonomy, as political actors often retain indirect mechanisms of influence (Melton & Ginsburg, 2014). These mechanisms include control over judicial appointments, career advancement, and institutional resources, all of which affect judicial incentives. As a result, judicial independence must be analyzed as a multidimensional phenomenon embedded within broader political structures (Burbank & Friedman, 2002).

Political influence over the judiciary does not necessarily manifest through overt violations of constitutional norms, but rather through subtle and legally permissible strategies. Democratic governments frequently employ institutional redesign, jurisdictional reallocation, or judicial council arrangements to shape judicial outcomes while maintaining formal compliance with constitutional standards (Garoupa & Ginsburg, 2009). Such strategies complicate traditional dichotomies between independent and dependent courts. They also reveal that political influence often operates through structural conditions rather than direct intervention (Hanssen, 2004).

The evolution of judicial independence is closely tied to historical patterns of democratic development and political competition. Research on the origins of positive judicial independence suggests that courts often acquire autonomy when political elites perceive long-term benefits in delegating authority to neutral arbiters (Hilbink, 2012). This delegation is rarely altruistic, as it reflects strategic calculations about uncertainty, regime durability, and electoral volatility. Judicial independence therefore emerges not as a rejection of politics, but as a product of political bargaining within democratic systems (Randazzo et al., 2016).

Empirical studies have sought to measure judicial independence across jurisdictions, revealing substantial variation between formal and practical dimensions. Global datasets indicate that countries with strong constitutional protections do not always exhibit high levels of de facto judicial autonomy (Linzer & Staton, 2015). These findings challenge legalistic assumptions that constitutional design alone determines judicial behavior. Instead, they emphasize the importance of political culture, enforcement capacity, and institutional credibility in sustaining judicial independence (Hayo & Voigt, 2007).

The political environment of modern democracies has become increasingly complex due to changes in leadership styles, party systems, and patterns of political influence. Advanced democracies have experienced shifts toward personalized leadership and executive dominance, altering traditional checks and balances (Pakulski, 2013). These developments intensify pressures on judicial institutions, particularly in politically salient cases involving electoral disputes, corruption, or executive authority. Judicial independence in this setting becomes a contested terrain rather than a settled constitutional fact (Dalton et al., 2004).

New democracies face distinct challenges in establishing judicial independence, as political inequality and elite dominance often shape institutional outcomes. Research on political influence in transitional systems demonstrates that courts are frequently embedded within networks of power that limit their capacity for autonomous decision-making (Tóka & Popescu, 2007). Economic interests and organized networks may further undermine judicial impartiality by exerting pressure through informal channels (Dobovšek, 2008). These dynamics reveal that judicial independence is deeply affected by broader patterns of political and economic power.

To illustrate the interaction between legal design, political influence, and judicial autonomy, comparative empirical findings from prior research and official indices are summarized below. The data reflects consolidated measurements drawn from global datasets, constitutional analyses, and peer-reviewed studies, highlighting disparities between formal guarantees and practical independence (Linzer & Staton, 2015; Ríos-Figueroa & Staton, 2014; Hayo & Voigt, 2007).

Table 1. Comparative Indicators of Judicial Independence and Political Influence

Indicator	High-Performing Democracies	Hybrid Democracies	Emerging Democracies
De jure judicial independence	High	Moderate	High
De facto judicial independence	High	Low–Moderate	Low
Political control over appointments	Limited	Moderate	Extensive
Judicial council autonomy	Strong	Mixed	Weak
Perceived political pressure (survey-based)	Low	Moderate	High

The data underscores that judicial independence cannot be adequately understood through constitutional texts alone. Even where formal guarantees are strong, political practices often shape judicial outcomes in significant ways. These patterns confirm earlier theoretical claims that independence is contingent upon political incentives, institutional design, and societal expectations rather than legal norms in isolation (Rosenberg, 1992; Kaufman, 1980).

Judicial independence must therefore be conceptualized as a dynamic equilibrium between legal authority and political power. Democratic legitimacy requires courts to operate within political systems while retaining sufficient autonomy to uphold constitutional principles (Schmitter & Karl, 1991). Excessive political influence risks eroding public trust and judicial credibility, particularly in contexts marked by corruption and partisan polarization (Anderson & Tverdova, 2003). This conceptual framework provides the foundation for analyzing how political influence manifests in institutional practice, which will be examined in the subsequent sub-discussions (Fathy & Santika, 2025).

Institutional Mechanisms of Political Influence over Judicial Independence

Political influence over judicial independence in modern democracies is most effectively exercised through institutional mechanisms rather than direct interference with judicial decision-making. These mechanisms operate within formally legal frameworks, allowing political actors to shape judicial behavior while maintaining constitutional legitimacy (Burbank & Friedman, 2002). Institutional design thus becomes a central arena in which the balance between autonomy and control is negotiated. Courts remain formally independent, yet structurally embedded within political systems that condition their authority (Fathy & Santika, 2025).

Judicial appointment processes constitute one of the most significant channels through which political influence is exerted. In many democratic systems, executive and legislative actors retain decisive roles in selecting judges, enabling partisan considerations to affect judicial composition over time (Garoupa & Ginsburg, 2009). While merit-based procedures are often formally prescribed, political bargaining frequently determines final outcomes. This dynamic transforms appointments into strategic tools for shaping long-term judicial orientations rather than isolated personnel decisions (Hanssen, 2004).

Tenure security and career advancement further illustrate how institutional arrangements influence judicial independence. Judges whose promotion, reassignment, or renewal depends on political authorities may internalize constraints that subtly affect their adjudicative choices (Hayo & Voigt, 2007). Even in systems with formal life tenure, informal evaluations and reputational considerations may produce compliance-oriented behavior. Judicial independence in such settings becomes conditional upon institutional incentives rather than absolute legal protection (Kaufman, 1980).

Judicial councils have emerged as prominent governance bodies intended to insulate courts from political pressure, yet their effectiveness varies widely across jurisdictions. Comparative research demonstrates that councils dominated by political appointees often replicate, rather than mitigate, executive and legislative influence (Garoupa & Ginsburg, 2009). Where councils lack internal autonomy, they may function as intermediaries of political control over discipline and administration.

Institutional insulation thus depends less on formal existence than on composition and authority (Ríos-Figueroa & Staton, 2014).

Budgetary control represents another powerful yet understated mechanism of political influence. Courts depend on legislative appropriations for operational capacity, staffing, and technological resources, creating structural vulnerability to political priorities (Melton & Ginsburg, 2014). Financial constraints may limit judicial efficiency, delay proceedings, and reduce institutional credibility. Such pressures rarely violate constitutional provisions, yet they shape judicial performance in ways that undermine substantive independence (Rosenberg, 1992).

The reorganization of judicial jurisdiction and competence has increasingly been used to influence adjudication outcomes. Political actors may expand, restrict, or reallocate jurisdiction in response to unfavorable judicial rulings, reframing institutional authority without direct confrontation (Burbank & Friedman, 2002). These practices alter the scope of judicial review while preserving formal legality. As a result, institutional restructuring becomes a strategic instrument for managing judicial power (Hilbink, 2012).

Empirical research highlights the cumulative impact of these institutional mechanisms on de facto judicial independence. Comparative datasets reveal consistent gaps between constitutional guarantees and practical autonomy, particularly in systems with politicized appointment and governance structures (Linzer & Staton, 2015). These findings demonstrate that institutional design mediates political influence more effectively than explicit interference. Judicial independence therefore reflects systemic configurations rather than isolated legal rules (Randazzo et al., 2016).

To strengthen the analytical foundation, empirical indicators drawn from global indices, official governance reports, and peer-reviewed studies are summarized below. The table synthesizes findings from cross-national research on institutional mechanisms affecting judicial independence, illustrating how political influence is embedded within formal structures (Linzer & Staton, 2015; Ríos-Figueroa & Staton, 2014; Hayo & Voigt, 2007).

Table 2. Institutional Channels of Political Influence on Judicial Independence

Institutional Mechanism	Mode of Political Influence	Empirical Impact on De Facto Independence
Judicial appointments	Partisan selection, confirmation bargaining	High
Judicial councils	Political dominance in membership	Moderate–High
Budgetary control	Legislative allocation and constraints	Moderate
Career advancement	Politically influenced promotions	High
Jurisdictional redesign	Legal restructuring of court authority	Moderate

The table demonstrates that political influence is most pronounced where institutional discretion intersects with judicial incentives. Appointment systems and career structures consistently exhibit the strongest effects on judicial behavior. These patterns confirm that institutional design serves as a primary mediator between democratic politics and judicial autonomy (Hanssen, 2004; Hayo & Voigt, 2007).

Institutional mechanisms of influence are further intensified by broader democratic transformations, including executive centralization and party system fragmentation. Advanced democracies increasingly exhibit leadership-driven governance styles that prioritize policy efficiency over institutional restraint (Pakulski, 2013). These developments reshape expectations of judicial compliance, particularly in politically sensitive cases. Courts operating under such conditions face heightened pressure to align with dominant political agendas (Dalton et al., 2004).

In emerging and transitional democracies, institutional mechanisms of influence are often compounded by unequal political power and economic networks. Political elites may leverage institutional weaknesses to shield themselves from accountability, reducing the judiciary's capacity to

function as an effective check (Tóka & Popescu, 2007). Organized economic interests further exacerbate these vulnerabilities by exploiting judicial dependence on political authorities (Dobovšek, 2008). Judicial independence in such contexts remains structurally constrained despite formal democratic commitments (Schmitter & Karl, 1991).

Institutional mechanisms reveal that political influence over judicial independence is neither accidental nor anomalous within democratic systems. It is embedded within governance structures that reflect political calculations, historical compromises, and power asymmetries (Rosenberg, 1992). Judicial independence persists not through isolation from politics, but through carefully calibrated institutional safeguards. This analysis sets the stage for examining the broader democratic consequences arising from weakened judicial independence, which will be addressed in the subsequent sub discussion (Anderson & Tverdova, 2003; Fathy & Santika, 2025).

Democratic Consequences of Weakened Judicial Independence in Contemporary Political Systems

Judicial independence plays a decisive role in sustaining democratic legitimacy by ensuring that political power remains subject to legal constraint. When judicial autonomy is weakened, courts struggle to function as effective guardians of constitutional principles, leading to an imbalance between authority and accountability (Schmitter & Karl, 1991). Democratic systems rely on independent adjudication to resolve conflicts impartially, particularly in politically sensitive disputes involving elections, executive authority, and fundamental rights. The erosion of judicial independence therefore carries consequences that extend beyond legal institutions to the democratic order as a whole (Kaufman, 1980).

One of the most immediate democratic consequences of diminished judicial independence is the decline of public trust in legal institutions. Empirical research demonstrates that citizens are less likely to view courts as legitimate arbiters when judicial decisions are perceived to align with partisan interests (Anderson & Tverdova, 2003). This perception undermines confidence in the rule of law and weakens compliance with judicial outcomes. Over time, distrust in courts contributes to broader skepticism toward democratic governance itself (Dalton et al., 2004).

Weak judicial independence also affects the quality of political competition within democratic systems. Courts play a crucial role in regulating electoral processes, political financing, and access to political participation. When judicial oversight is compromised, dominant political actors may exploit institutional advantages to entrench their power (Tóka & Popescu, 2007). This dynamic reduces the fairness of democratic competition and reinforces inequalities of political influence (Hobson, 2008).

The protection of minority rights is particularly vulnerable in contexts where judicial independence is constrained. Democratic theory emphasizes the judiciary's role in safeguarding individuals and groups against majoritarian excesses (Sigmund, 1987). Courts lacking autonomy may hesitate to challenge legislative or executive actions that infringe upon civil liberties. As a result, constitutional rights become contingent upon political tolerance rather than legal entitlement (Rosenberg, 1992). Judicial dependence further facilitates the persistence of corruption and abuse of power within democratic institutions. Independent courts serve as critical mechanisms for enforcing accountability and sanctioning misconduct. When political actors influence judicial processes, investigations and prosecutions may be selectively applied or obstructed altogether (Dobovšek, 2008). This selective enforcement distorts democratic equality before the law and entrenches elite impunity (Anderson & Tverdova, 2003).

Comparative democratic research indicates that sustained erosion of judicial independence contributes to democratic backsliding. Formal democratic structures may remain intact, yet substantive accountability mechanisms gradually weaken. Courts that fail to constrain political authority allow incremental concentration of power within the executive branch (Pakulski, 2013). These developments reshape democratic systems into hybrid regimes characterized by legal formality and diminished constitutional restraint (Schmitter & Karl, 1991).

The broader societal consequences of weakened judicial independence are reflected in declining civic engagement and political participation. Citizens who perceive legal institutions as politicized may disengage from democratic processes, viewing participation as ineffective or futile (Dalton et al., 2004). This disengagement further reduces pressure on political elites to respect institutional limits. Judicial

independence thus functions as an indirect yet essential foundation for democratic vitality (Fathy & Santika, 2025).

To contextualize these consequences empirically, comparative findings from prior research, governance indicators, and official assessments are summarized below. The data synthesizes established measurements linking judicial independence to democratic performance, political trust, and accountability outcomes (Linzer & Staton, 2015; Hayo & Voigt, 2007; Ríos-Figueroa & Staton, 2014).

Table 3. Democratic Outcomes Associated with Levels of Judicial Independence

Dimension of Democracy	High Judicial Independence	Moderate Judicial Independence	Low Judicial Independence
Public trust in courts	High	Moderate	Low
Electoral fairness	Strong	Uneven	Weak
Protection of minority rights	Consistent	Selective	Minimal
Corruption control	Effective	Partial	Ineffective
Executive accountability	Strong	Limited	Weak

The table demonstrates a clear association between judicial independence and democratic quality across multiple dimensions. Systems with robust judicial autonomy exhibit higher levels of trust, accountability, and rights protection. Conversely, diminished independence correlates with institutional fragility and democratic erosion (Linzer & Staton, 2015).

The democratic consequences of weakened judicial independence are further amplified in societies marked by historical inequalities and uneven institutional development. In such contexts, courts may become instruments for reinforcing existing power hierarchies rather than correcting them (Tóka & Popescu, 2007). This condition undermines the emancipatory promise of democratic constitutionalism. Judicial independence therefore remains central to the realization of democracy as both a procedural and substantive system of governance (Hobson, 2008).

Ultimately, judicial independence should be understood as a cornerstone of democratic resilience rather than a purely legal abstraction. Its erosion compromises accountability, equality, and legitimacy across democratic institutions. Political influence over courts reshapes democracy by weakening its capacity for self-correction and restraint (Burbank & Friedman, 2002). Preserving judicial independence is thus inseparable from the broader project of sustaining democracy in contemporary political systems (Fathy & Santika, 2025).

CONCLUSION

Judicial independence remains a fundamental yet continuously contested pillar of modern democratic governance, shaped by enduring interactions between legal norms and political power. This study demonstrates that judicial autonomy cannot be reduced to constitutional design alone, as institutional mechanisms, political incentives, and democratic transformations profoundly influence judicial behavior. Political influence most often manifests through lawful institutional channels that subtly recalibrate the balance between autonomy and control, rather than through overt interference. The weakening of judicial independence generates far-reaching democratic consequences, including diminished public trust, weakened accountability, and increased vulnerability to executive dominance. Preserving judicial independence therefore requires sustained political commitment, robust institutional safeguards, and a democratic culture that recognizes courts as essential guardians of constitutional order rather than obstacles to political authority.

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