JUDGING FOR DEMOCRACY

This book examines how constitutional courts can sustainably contribute to advancing democratic norms in hybrid regimes, i.e. regimes that are neither fully democratic nor fully authoritarian. Using a comparative approach analysing cases from across the globe, particularly from Hong Kong, Pakistan, and Uganda, Julius Yam makes the case that courts can assume a democracy-enhancing role in hybrid regimes. The book reveals the challenges faced by courts in performing such a role. It also proposes an adjudicative framework that systematically integrates principled judging with judicial strategy, and suggests nonadjudicative techniques that judges can adopt to reinforce democracy. While theoretical in substance, this book is informed by empirical studies and draws on a wide range of disciplines, including law, political science, sociology, and psychology. The book will be a key resource to judges, academics, and practitioners who are interested in the study of democracy and courts. Its insights are particularly pertinent in an age of democratic backsliding and resurgence of authoritarianism. This title is also available as open access on Cambridge Core.

DR JULIUS YAM (1992–2024) was Assistant Professor of Law at the University of Hong Kong. He was posthumously awarded the Wedderburn Prize for his article 'Judging Under Authoritarianism' (2024) 87(4) *Modern Law Review* 894. He obtained his LLB from the University of Hong Kong, LLM from the University of Chicago, and DPhil in Law from Trinity College, University of Oxford.

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 08:52:52, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009734981

CAMBRIDGE STUDIES IN CONSTITUTIONAL LAW

The aim of this series is to produce leading monographs in constitutional law. All areas of constitutional law and public law fall within the ambit of the series, including human rights and civil liberties law, administrative law, as well as constitutional theory and the history of constitutional law. A wide variety of scholarly approaches is encouraged, with the governing criterion being simply that the work is of interest to an international audience. Thus, works concerned with only one jurisdiction will be included in the series as appropriate, while, at the same time, the series will include works which are explicitly comparative or theoretical – or both. The series editors likewise welcome proposals that work at the intersection of constitutional and international law, or that seek to bridge the gaps between civil law systems, the US, and the common law jurisdictions of the Commonwealth.

Series Editors
David Dyzenhaus
Professor of Law and Philosophy, University of Toronto, Canada
Thomas Poole
Professor of Law, London School of Economics and Political Science

Books in the series

The Anti-Nazi Origins of Militant Democracy: Germany's Constitutional Tribunes Samuel Miner

Courts in the Age of Polarization: Supreme and Constitutional Courts in Politically Divided Societies Iddo Porat and Moshe Cohen-Eliya

Militant Rule of Law: Legal Imperfection and What To Do About It András Sajó

Judging for Democracy: Principles and Strategies in Hybrid Regimes Julius Yam

Hans Kelsen on Constitutional Democracy: Genesis, Theory, Legacies Sandrine Baume and David Ragazzoni

Alter-Native Constitutionalism: Common-ing 'Common' Law, Transforming Property in South Africa Sindiso Mnisi

The Failures of Others: Justifying Institutional Expansion in Comparative Public and International Law Michaela Hailbronner

Constitutionalizing the Private Sphere: A Comparative Inquiry Christina R. Bambrick

Beyond Expropriation Without Compensation: Law, Land Reform and Redistributive Justice in South Africa Edited by Olaf Zenker, Cherryl Walker and Zsa-Zsa Boggenpoel

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 08:52:52, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009734981

Trust, Courts and Social Rights: A Trust-Based Framework for Social Rights Enforcement David Vitale

The Collaborative Constitution Aileen Kavanagh

Non-Statutory Executive Powers and Judicial Review Jason Grant Allen

The Law as a Conversation among Equals Roberto Gargarella

Micronations and the Search for Sovereignty Harry Hobbs and George Williams

Fundamental Rights and the Legal Obligations of Business David Bilchitz

Courting Constitutionalism: The Politics of Public Law and Judicial Review in Pakistan Moeen Cheema

Ruling by Cheating: Governance in Illiberal Democracy András Sajó

Local Meanings of Proportionality Afroditi Marketou

Property Rights and Social Justice: Progressive Property in Action Rachael Walsh

Carl Schmitt's Early Legal-Theoretical Writings: Statute and Judgment and the Value of the State and the Significance of the Individual Lars Vinx and Samuel Garrett Zeitlin

Remedies for Human Rights Violations: A Two-Track Approach to Supranational and National Law Kent Roach

Europe's Second Constitution: Crisis, Courts and Community Markus W. Gehring

A.V. Dicey and the Common Law Constitutional Tradition: A Legal Turn of Mind Mark D. Walters

Administrative Competence: Reimagining Administrative Law Elizabeth Fisher and Sidney A. Shapiro

Legal Sabotage: Ernst Fraenkel in Hitler's Germany Douglas Morris

Proportionality in Action: Comparative and Empirical Perspectives on the Judicial Practice Edited by Mordechai Kremnitzer, Tayla Steiner and Andrej Lang

Constitutional Dialogue: Democracy, Rights, Institutions Edited by Geoffrey Sigalet, Grégoire Webber and Rosalind Dixon

The Veiled Sceptre: Reserve Powers of Heads of State in Westminster Systems Anne Twomey

Vigilance and Restraint in the Common Law of Judicial Review Dean Knight

The Alchemists: Questioning Our Faith in Courts as Democracy-Builders Tom Gerald Daly

Australia's Constitution after Whitlam Brendan Lim

Building the Constitution: The Practice of Constitutional Interpretation in Post-Apartheid South Africa James Fowkes

Dimensions of Dignity: The Theory and Practice of Modern Constitutional Law Jacob Weinrib

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 08:52:52, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009734981

Reason of State: Law, Prerogative, Empire Thomas Poole

Bills of Rights in the Common Law Robert Leckey

The Guardian of the Constitution: Hans Kelsen and Carl Schmitt on the Limits of Constitutional Law Translated by Lars Vinx, with an introduction and notes by Lars Vinx

Parliamentary Bills of Rights: The Experiences of New Zealand and the United Kingdom Janet L. Hiebert and James B. Kelly

Lawyering for the Rule of Law: Government Lawyers and the Rise of Judicial Power in Israel Yoav Dotan

Balancing Constitutional Rights: The Origins and Meanings of Postwar Legal Discourse Jacco Bomhoff

Judges on Trial: The Independence and Accountability of the English Judiciary Shimon Shetreet and Sophie Turenne

Proportionality and Constitutional Culture Moshe Cohen-Eliya and Iddo Porat

The Politics of Principle: The First South African Constitutional Court, 1995–2005 Theunis Roux

The New Commonwealth Model of Constitutionalism: Theory and Practice Stephen Gardbaum

Searching for the State in British Legal Thought: Competing Conceptions of the Public Sphere Janet McLean

Judging Social Rights Jeff King

Proportionality: Constitutional Rights and their Limitations Aharon Barak

Parliamentary Sovereignty: Contemporary Debates Jeffrey Goldsworthy

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 08:52:52, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009734981

JUDGING FOR DEMOCRACY

Principles and Strategies in Hybrid Regimes

JULIUS YAM
The University of Hong Kong

CAMBRIDGE UNIVERSITY PRESS

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 08:52:52, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009734981

CAMBRIDGE
UNIVERSITY PRESS

Shaftesbury Road, Cambridge CB2 8EA, United Kingdom

One Liberty Plaza, 20th Floor, New York, NY 10006, USA

477 Williamstown Road, Port Melbourne, VIC 3207, Australia

314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre,
New Delhi – 110025, India

Cambridge University Press is part of Cambridge University Press & Assessment,
a department of the University of Cambridge.

We share the University's mission to contribute to society through the pursuit of
education, learning and research at the highest international levels of excellence.

www.cambridge.org
Information on this title: www.cambridge.org/9781009734998

DOI: 10.1017/9781009734981

© Julius Yam 2026

This publication is in copyright. Subject to statutory exception and to the provisions
of relevant collective licensing agreements, with the exception of the Creative Commons
version the link for which is provided below, no reproduction of any part may take
place without the written permission of Cambridge University Press & Assessment.

An online version of this work is published at doi.org/10.1017/9781009734981 under
a Creative Commons Open Access license CC-BY-NC 4.0 which permits re-use, distribution
and reproduction in any medium for non-commercial purposes providing appropriate
credit to the original work is given and any changes made are indicated. To view a copy of
this license visit https://creativecommons.org/licenses/by-nc/4.0

When citing this work, please include a reference to the DOI 10.1017/9781009734981

First published 2026

Cover image: James Leung

A catalogue record for this publication is available from the British Library

A Cataloging-in-Publication data record for this book is available from the Library of Congress

ISBN 978-1-009-73499-8 Hardback
ISBN 978-1-009-73497-4 Paperback

Cambridge University Press & Assessment has no responsibility for the persistence
or accuracy of URLs for external or third-party internet websites referred to in this
publication and does not guarantee that any content on such websites is, or will remain,
accurate or appropriate.

For EU product safety concerns, contact us at Calle de José Abascal, 56, 1°, 28003 Madrid,
Spain, or email eugpsr@cambridge.org

Downloaded from https://www.cambridge.org/core. UNIVERSIDAD AUTONOMA METROPOLITANA, on 19 Nov 2026 at 08:52:52, subject to the
Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781009734981