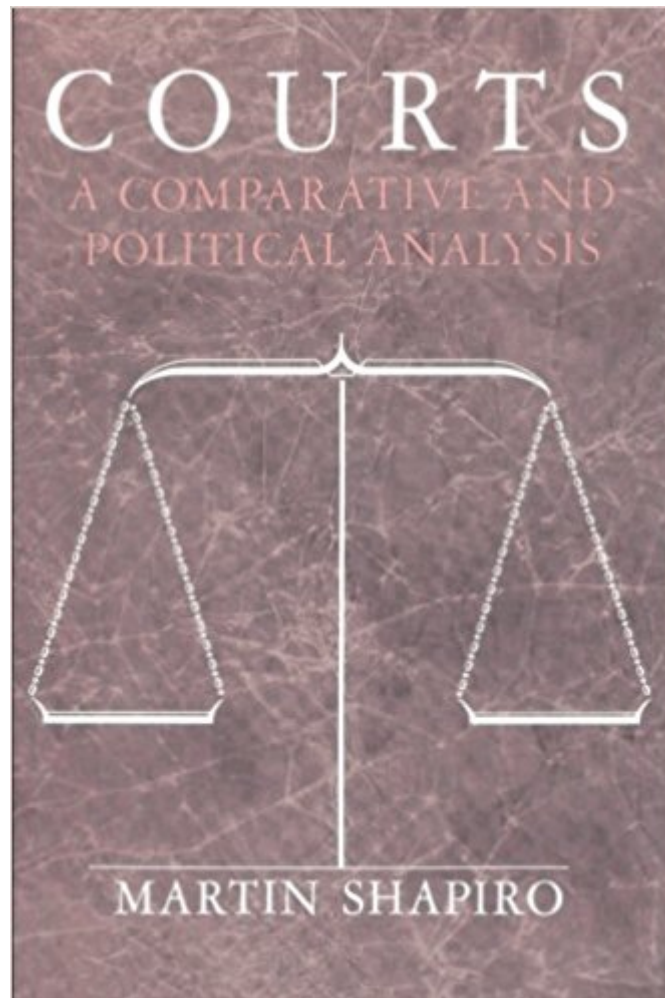




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Courts: A Comparative And Political Analysis



Synopsis

In this provocative work, Martin Shapiro proposes an original model for the study of courts, one that emphasizes the different modes of decision making and the multiple political roles that characterize the functioning of courts in different political systems.

Book Information

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Customer Reviews

Martin Shapiro's *Courts: A Comparative and Political Analysis* is one of those special books that changes the way scholars view a particular subject. Typically, political scientists and lawyers have considered courts independent, apolitical institutions that apply predetermined legal rules in a rational manner. Shapiro turns this narrative upside-down. He shows that courts are in fact political actors that respond to political incentives. He begins *Courts* by discussing the conventional prototype of courts. He shows that some element of consent is required for legitimate dispute resolution. In tribal societies, this was resolved by direct consent obtained by the "big man" adjudicator from each of the parties. Losing parties would abide by the decision because they had agreed in advance and because they are part of the same social fabric. In modern societies, when parties might come from different parties of country - or even across the world - it becomes more difficult to compel them to accept an adjudicator's judgment. Governments had to increase the power of judges to compel losing parties to appear at trial and obey judgments. However, in order to compensate for this lack of consent, Shapiro argues governments were forced to grant judges some element of independence. Fairness and justice compensate the parties for their lack of consent and therefore losing parties generally at least grudgingly comply.

Martin Shapiro's book, *Courts: A Comparative and Political Analysis* does a good job explaining the basis and theory behind courts by examining the traditional prototype of courts and evaluating and complicating it. Though Shapiro is a law professor discussing legal history and abstract concepts, he succeeds in structuring the book in a manner that makes it a difficult, but manageable read. Shapiro starts with the basic prototype of courts, and proclaims that this prototype does not truly fit any court system. He shows how courts developed from a basic triadic system of conflict resolution and then through the various chapters goes about showing the non-universal aspect of the prototype by examining a different, often historical, example of a clear violation of a point of the prototype. Shapiro shows how these variations develop and hence shows the complexity of what we think of as courts. A reader can take a lot away from this book beyond the basic argument. Shapiro shows complex ideas of legal history, for example, in the second chapter he explains much of the development of common law in England. This is interesting beyond the argument of the book and something that is often interesting and engaging. Though this book is full of often interesting history and theory, it is not necessarily full of that much practical information. Though one can learn about the basic concept of courts, they can not take that information out into the real world, even if the reader deals with the courts and legal system. It is a good academic exercise and a good theoretic explanation. I read this book for an undergraduate college course and it was good there, but not something one should read on one's own to take something independent away from it.

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