

Proposals (ACS Constitutional Law Scholars Forum)

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Title:

Polarization and the Judicial Models: Revisiting the Judicial Elections in the United States and Japan

Abstract:

This paper examines the judicial model and public confidence in the courts through the American and Japanese judicial election system. Judicial elections are gradually becoming partisan in each state, and the U.S. Supreme Court has dealt with four cases so far: *Republican Party of Minnesota v. White* (2002), *Caperton v. Massey* (2009), *Williams-Yulee v. Florida Bar* (2015), and *Carney v. Adams* (2020). One vital interest is judicial candidate's freedom of speech, and the other is judicial impartiality and public confidence in it. Through these decisions, both conservative and liberal Justices suggest the ideal judicial models in a democratic society, inspired by the classic and modern judicial tradition. The Supreme Court of Japan has partially adopted the American judicial retention election or the Missouri Plan; however, because of the vast majority of voters' ignorance, the elections are hardly functioning. While comparing the U.S. and Japan, I would like to reconsider the relationship between the judicial models and public confidence in the courts, the foundation of judicial independence.

Biography:

Associate Professor of Constitutional Law at Kanto Gakuin University College of Law (Japan). B.A. Waseda University (Japan); M.A. Waseda University. Research Associate at Waseda University School of Law in 2009-11, Visiting Scholar at Stanford Law School in 2012-13, Assistant Professor at Kanto Gakuin University College of Law in 2013-17, and Visiting Scholar at University of Pennsylvania Carey Law School with Fulbright Scholarship in 2021. Co-editor of Japanese American Society for Legal Studies since 2020.

Key words:

judicial elections, judicial impartiality, judicial independence, freedom of speech, due process, and democracy.