

BALANCING JUDICIAL ACTIVISM AND RESTRAINT IN INDONESIA'S CONSTITUTIONAL COURT

Ahmad^{*a}, Apdan^b Mohammad Nur Kholis^c

^{abc} Universitas Muhammadiyah Tangerang

^a ahmadfh@umt.ac

^b apdannanung12@gmail.com

^c cholislawe@yahoo.com

Abstract

This study examines the trends in judicial activism and restraint in the Indonesian Constitutional Court's judicial review rulings, as well as the consequences for constitutional democracy. The study looks at 15 significant rulings from 2010 to 2024 using a qualitative doctrinal approach and case-based jurisprudential analysis. The findings demonstrate that while the Constitutional Court exercises judicial activism to uphold citizens' constitutional rights and reinforce the idea of checks and balances, it also exercises judicial restraint when it comes to matters of public policy. These results highlight the necessity of bolstering the processes for carrying out rulings and striking a dynamic balance between judicial activism and caution. The report suggests updating the Constitutional Court Law, standardizing the reasoning behind decisions, raising public awareness, and enhancing cooperation between the House of Representatives, the Constitutional Court, and civil society.

Keywords: *Indonesian constitutional democracy, judicial activism, judicial restraint, judicial review, Constitutional Court.*

Abstrak

Penelitian ini menganalisis pola judicial activism dan judicial restraint dalam putusan pengujian undang-undang di Mahkamah Konstitusi Indonesia serta implikasinya terhadap demokrasi konstitusional. Menggunakan pendekatan kualitatif doktrinal dan case-based jurisprudential analysis, penelitian menelaah 15 putusan landmark periode 2010–2024. Hasil penelitian menunjukkan MK menerapkan judicial activism untuk melindungi hak konstitusional warga negara dan memperkuat prinsip checks and balances, namun juga menerapkan judicial restraint dalam isu kebijakan publik. Temuan ini mengindikasikan perlunya keseimbangan dinamis antara aktivisme yudisial dan kehati-hatian, serta penguatan mekanisme implementasi putusan. Penelitian merekomendasikan revisi UU MK, standarisasi reasoning putusan, peningkatan kesadaran publik, dan penguatan kolaborasi antara MK, DPR, dan masyarakat sipil.

Kata Kunci: *Mahkamah Konstitusi, Judicial Activism, Judicial Restraint, Judicial Review, Demokrasi Konstitusional Indonesia.*

INTRUDUCTION

Historically, the doctrines of *judicial activism* and *judicial restraint*

emerged from the American constitutional experience, symbolizing two contrasting views of judicial function within the separation of powers framework.¹

¹ Atip Latipulhayat, "Editorial: Mendudukan Kembali Judicial Activism Dan Judicial Restraint Dalam Kerangka Demokrasi," *PADJADJARAN*

Jurnal Ilmu Hukum (Journal of Law) 4, no. 3 (January 28, 2018): i–vi, <https://doi.org/10.22304/pjih.v4n3.a0>.

Comparative experiences in the United States, Canada, and India illustrate how these approaches have shaped constitutional interpretation and defined the boundaries of judicial authority.²

The debate between *judicial activism* and *judicial restraint* in the practice of the Constitutional Court of Indonesia (MK) arises from differing judicial philosophies regarding the interpretation and application of constitutional law. *Judicial activism* emphasizes a proactive judicial role in shaping policy and protecting constitutional rights, often extending beyond strict textual interpretation. In contrast, *judicial restraint* underscores adherence to legal texts and precedents while limiting judicial intervention in the policy-making domain. This debate is rooted in the historical and theoretical foundations of American legal traditions, reflecting distinct perspectives on the judiciary's role within a democratic state and influenced by political ideologies, public opinion, and media narratives across legal systems.³

The Constitutional Court of Indonesia (MK) serves as a vital guardian of the Constitution, tasked with upholding

the supremacy of constitutional law and ensuring the protection of citizens' fundamental rights. By exercising its authority of *judicial review*, the Court evaluates whether legislative acts conform to the 1945 Constitution, thereby reinforcing the rule of law and preserving democratic values. This function is especially significant within Indonesia's complex political context, where constitutional interpretation often becomes a matter of intense debate.^{4 5}

In Indonesia's post-authoritarian constitutional framework, the Constitutional Court of Indonesia (MK) has become a crucial institution. The MK was created in the wake of the 1999–2002 constitutional amendments, and it has been given the power to uphold the 1945 Constitution's supremacy and use judicial review to defend fundamental rights.^{6 7} In Indonesia's developing democratic system, the Court upholds legal certainty and the rule of law by assessing the constitutionality of statutory norms and ensuring that legislative actions follow democratic principles.

A complex constitutional landscape marked by a dynamic distribution of powers, judicialization of politics, and an

² Sinha, "Judicial Activism vs. Judicial Restraint: A Comparative Review of Landmark Cases."

³ Manoj Kumar S Sinha, "Judicial Activism vs. Judicial Restraint: A Comparative Review of Landmark Cases," *Indian Journal of Law* 2, no. 4 (August 31, 2024): 103–8, <https://doi.org/10.36676/ijl.v2.i4.49>.

⁴ Fakhry Amin, "Peran Mahkamah Konstitusi Dalam Menjaga Prinsip Konstitusionalisme Di Indonesia: Studi Putusan Judicial Review Tahun 2019–2024," *Ranah Research : Journal of Multidisciplinary Research and Development* 7, no. 6 (September 2, 2025): 4467–75, <https://doi.org/10.38035/rj.v7i6.1856>.

⁵ Ashfiya Nur Atqiya et al., "Peran Mahkamah Konstitusi Dalam Menjamin Hak-Hak

Kewarganegaraan Di Indonesia," *Aliansi: Jurnal Hukum, Pendidikan Dan Sosial Humaniora* 1, no. 6 (November 20, 2024): 302–13, <https://doi.org/10.62383/aliansi.v1i6.611>.

⁶ Fakhry Amin, "Peran Mahkamah Konstitusi Dalam Menjaga Prinsip Konstitusionalisme Di Indonesia: Studi Putusan Judicial Review Tahun 2019–2024," *Ranah Research : Journal of Multidisciplinary Research and Development* 7, no. 6 (September 2, 2025): 4467–75, <https://doi.org/10.38035/rj.v7i6.1856>.

⁷ Ashfiya Nur Atqiya et al., "Peran Mahkamah Konstitusi Dalam Menjamin Hak-Hak Kewarganegaraan Di Indonesia," *Aliansi: Jurnal Hukum, Pendidikan Dan Sosial Humaniora* 1, no. 6 (November 20, 2024): 302–13, <https://doi.org/10.62383/aliansi.v1i6.611>.

increase in rights-based litigation has resulted from Indonesia's transition away from authoritarianism. In this regard, the MK serves as both an adjudicatory body and a constitutional interpretation body. Whether based on textual fidelity or broad purposive reasoning, its rulings have a big impact on institutional stability, governance, and the defense of citizens' constitutional rights.⁸

A key part of the Court's legal system is the conflict between judicial activism and judicial restraint. Judicial activism means that the Court takes the lead in expanding constitutional protections, shaping policy, and stepping in strongly when basic rights or constitutional structures are in danger. Judicial restraint, on the other hand, stresses the importance of following the Constitution, following the law, and respecting the roles of the legislative and executive branches. These conceptual distinctions, derived from comparative constitutional jurisprudence in the United States, Canada, and India, offer a theoretical framework for comprehending the Court's interpretive methodologies.

Observing the MK's decisions in real life shows a dual pattern. In several important cases, like Decision No. 85/PUU-XVI/2018, Decision No. 30/PUU-XIII/2015, and Decision No. 46/PUU-XIV/2016, the Court took a limited approach and did not get involved in making laws. This showed that the three branches of government are separate. On

the other hand, the Court has been active in cases involving electoral disputes, anti-corruption frameworks, public participation, and minority rights, expanding constitutional protections and affecting policy outcomes.⁹

Even though the MK has done well, it still has a lot of problems to deal with. These encompass possible external political interference, erratic enforcement of its decisions, and the lack of a thorough constitutional inquiry mechanism.¹⁰ Additionally, differences in how judges interpret things and how involved they are in cases raise concerns about the consistency of doctrine, how predictable it is, and how fairly rights are protected.

The majority of earlier research on the MK concentrated on specific decisions or specific topic areas, frequently giving descriptive accounts without methodically examining trends in judicial activism and restraint or placing Indonesia in a comparative constitutional framework. As a result, thorough studies that chart the Court's interpretive practices and assess their consequences for democratic governance and institutional balance are required.

Comparative constitutional theory and doctrinal legal analysis are combined in this study to find consistent trends in the Court's actions, investigate the ideational and structural elements influencing its rulings, and assess the wider ramifications for constitutional evolution. In order to improve the efficacy and legitimacy of

⁸ Selamat Sentosa Hasibuan, Nurul Rizki, and Ivanda Yusuf Siregar, "Peran Mahkamah Konstitusi Dalam Penegakan Hukum Dan Mempertahankan Keseimbangan Kekuasaan Dalam Sistem Pemerintahan Indonesia," *El-Mujtama: Jurnal Pengabdian Masyarakat* 4, no. 5 (September 2, 2024), <https://doi.org/10.47467/elmujtama.v4i5.3588>.

⁹ Ashfiya Nur Atqiya et al., "Peran Mahkamah Konstitusi Dalam Menjamin Hak-Hak Kewarganegaraan Di Indonesia."

¹⁰ Firdaus Arifin, "Position and Authority of the Constitutional Court as a Guardian of the Constitution," *Journal of Law, Politic and Humanities* 4, no. 5 (July 25, 2024): 1658–65, <https://doi.org/10.38035/jlph.v4i5.630>.

judicial review in Indonesia, this study advances constitutional scholarship, influences legal practice, and offers recommendations to policymakers and civil society.

In the end, evaluating the Court's legitimacy, coherence, and ability to support democratic governance while preserving institutional integrity and respecting constitutional boundaries requires an awareness of the delicate balance between activism and restraint.

PROBLEM STATEMENT

In order to fill these gaps, this study looks at two main questions:

- a. What ranges and intensities of judicial activism and restraint are represented in the rulings of the Constitutional Court?
- b. What effects do these interpretation techniques have on Indonesia's democratic governance's allocation of state power and defense of constitutional rights?

RESEARCH METHODOLOGY

This research uses a qualitative method with a descriptive design. Doctrinal normative combined with decision analysis (*case based jurisprudential analysis*). This approach was chosen because it is appropriate for examining legal construction, patterns of judicial interpretation, and the relationship between the norms of the 1945 Constitution and laws tested in the Constitutional Court. The doctrinal approach is used to examine

theories and principles regarding *judicial activism* and *judicial restraint*, while decision analysis is used to map the intensity of arguments and the institutional impact of the Constitutional Court's decisions, as recommended by Hutchinson & Duncan.¹¹

Due to the issue of activism and *restraint* interpretive in nature, this study uses a descriptive design qualitative descriptive-exploratory to understand the logic of judges' reasoning and how interpretive orientation influences the relationship between branches of power. This methodology combines five approaches: legislative, conceptual, case, historical, and comparative. International literature such as Kmiec, Choudhry, and Sunstein are used to strengthen the theoretical framework.^{12 13 14}

The unit of analysis includes the Constitutional Court's decisions in PUU cases for the period 2010–2024, focusing on fifteen decisions that are considered representative in describing the practice of activism and *restraint*, including the Decision 46/PUU-VIII/2010, 97/PUU-XI/2013, 30/PUU-XIII/2015, 85/PUU-XVI/2018, And 56/PUU-XVIII/2020.

The research data consists of data primer (MK decision, 1945 Constitution, MK Law), data seconds (Scopus and SINTA literature), as well as tertiary data (legal dictionary, encyclopedia, and Constitutional Court database). Data collection was conducted through

¹¹ N. Hutchinson, T., & Duncan, "Defining and Describing What We Do: Doctrinal Legal Research," *Deakin Law Review* 17, no. 1 (2012): 83–119.

¹² C. Sunstein, *One Case at a Time: Judicial Minimalism on the Supreme Court*. (Harvard University Press, 1999).

¹³ S. (Ed.). Choudhry, *The Oxford Handbook of the Indian Constitution*. (Oxford University Press., 2016).

¹⁴ K. D. Kmiec, "The Origin and Current Meanings of Judicial Activism," *California Law Review* 92, no. 5 (2004): 1441–1477.

document and literature studies using databases such as Scopus, and Google Scholar.

Data analysis is carried out in several stages: content analysis, legal reasoning analysis, comparative analysis, institutional impact mapping, evaluation of influence on constitutional rights, and theoretical triangulation. Validity techniques include content validity, source triangulation, convergent validity, And peer debriefing.^{15 16 17}

Despite its limitations, such as reliance on documents and the potential for interpretation bias, this approach is considered appropriate for constitutional analysis because it is able to explain the relationship between the political context, interpretation methods, and the consequences of the Constitutional Court's decisions.

RESULT AND DISCUSSION

a. Range and Intensity of Judicial Activism and Restraint in Constitutional Court Decisions

Pattern and intensity judicial activism as well as judicial restraint varies from country to country depending on legal traditions and social needs. Judicial activism illustrates the court's proactive approach with a broader interpretation of the constitution to address social issues, while judicial restraint emphasizing adherence to legal texts and respect for the

political authority of legislative and executive institutions. Both are important pillars for maintaining the balance of democracy and the rule of law. Pattern and intensity judicial activism as well as judicial restraint varies from country to country depending on legal traditions and social needs. Judicial activism illustrates the court's proactive approach with a broader interpretation of the constitution to address social issues, while judicial restraint emphasizing adherence to legal texts and respect for the political authority of legislative and executive institutions. Both are important pillars for maintaining the balance of democracy and the rule of law.¹⁸

1. *Judicial Activism* Constitutional Court Practice

The activism model is seen in a number of countries such as the United States through decisions *Brown v. Board of Education* and *Roe v. Wade* which drives significant social change. In Indonesia, the Constitutional Court has also demonstrated activism, for example in the presidential nomination threshold case and progressive decisions such as: Constitutional Court Decision No. 46/PUU-VIII/2010 concerning the status of illegitimate children and Constitutional Court Decision No. 35/PUU-X/2012 concerning customary forests.

These decisions broaden the scope of constitutional rights protection and

¹⁵ M. Tushnet, *Weak Courts, Strong Rights: Judicial Review and Social Welfare Rights in Comparative Constitutional Law*. (Princeton University Press, 2009).

¹⁶ A. Stone Sweet, *The Judicialization of Politics* (Oxford University Press., 2019).

¹⁷ J. D. Creswell, J. W., & Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*. (SAGE Publications., 2018).

¹⁸ "Judicial Activism vs. Judicial Restraint: A Political Science Perspective," 2022, <https://doi.org/10.46632/rlpm/1/1/4>

demonstrate the Constitutional Court's courage in making substantive interpretations.¹⁹ However, criticism has emerged regarding the potential *judicial overreach* when the Constitutional Court is considered to have entered the realm of law-making.²⁰

2. Judicial Restraint in Constitutional Court Practice

Judicial restraint represents the court's cautious approach to avoiding entering the realm of political policy. This approach is evident in landmark decisions such as Constitutional Court Decision No. 53/PUU-XV/2017 concerning *parliamentary threshold* where the Constitutional Court emphasized that determining the threshold is the political discretion of legislators.

Restraint is considered important to maintain the stability of the democratic system and strengthen the principles *separation of powers*. *Restraint is considered important to maintain the stability of the democratic system and strengthen the principles separation of powers.*^{21 22}, although criticism has arisen that its excessive application may leave structural injustices unresolved.²³

Based on the analysis, the Constitutional Court developed a hybrid

approach between activism and restraint. Activism is used when norms are tested regarding constitutional rights or potential public injustice, while *restraint* used in issues that are domain *open legal policy*. This hybrid pattern is in line with the concept *pragmatic constitutionalism*.^{24 25}

b. Implications of Interpretive Approaches for Democratic Governance, State Power Distribution, and Constitutional Rights Protection

Judicial activism strengthens the Constitutional Court's corrective role in public policy. For example, in Constitutional Court Decision No. 5/PUU-X/2012 concerning BP Migas, the Court overturned a norm deemed contrary to state sovereignty over natural resources. However, this dominant activism has also raised concerns. *Judicial overreach*, such as criticism of the Constitutional Court Decision No. 91/PUU-XVIII/2020 regarding the Omnibus Law.

On the contrary, *judicial restraint* Maintaining the limits of judicial intervention. In Constitutional Court Decision No. 14/PUU-XI/2013, the Constitutional Court rejected the merger of legislative and presidential elections, considering it the legal political domain of

¹⁹ B. S. Prabowo, "Menggagas Judicial Activism Dalam Putusan Presidential Threshold Di Mahkamah Konstitusi," *Jurnal Konstitusi* 19, no. 1 (2022): 93, <https://doi.org/10.31078/jk1914>.
²⁰ Prabowo, B. S. (2022). Menggagas Judicial Activism dalam Putusan Presidential Threshold di Mahkamah Konstitusi. *Jurnal Konstitusi*, 19(1), 073. <https://doi.org/10.31078/jk1914>.

²¹ Manoj Kumar S Sinha, "Judicial Activism vs. Judicial Restraint: A Comparative Review of Landmark Cases," *Indian Journal of Law* 2, no. 4 (August 31, 2024): 103–8, <https://doi.org/10.36676/ijl.v2.i4.49>.

²² Sinha.

²³ Kipkoech Cheruiyot, "Judicial Activism, Judicial Restraint and Constitutional Interpretation in Kenya: The Post-2010 Era," *SSRN Electronic Journal*, 2021, <https://doi.org/10.2139/ssrn.4032620>.

²⁴ Sinha, "Judicial Activism vs. Judicial Restraint: A Comparative Review of Landmark Cases."

²⁵ Tushnet, *Weak Courts, Strong Rights: Judicial Review and Social Welfare Rights in Comparative Constitutional Law*.

²⁶ Sunstein, *One Case at a Time: Judicial Minimalism on the Supreme Court*.

lawmakers. This approach reinforces the principle *checks and balances*.

The Constitutional Court's activism expands constitutional rights guarantees. For example, Constitutional Court Decision No. 011-017/PUU-I/2003 affirmed press freedom as a constitutional right, and Constitutional Court Decision No. 97/PUU-XIV/2016 removed the requirement for a G30S/PKI acquittal decree in favor of the principle of non-discrimination.

However *judicial restraint* remains embedded in the issue of maintaining legal certainty and the stability of the legal system. In Constitutional Court Decision No. 49/PUU-IX/2011, the Constitutional Court held back the expansion of voting rights for the sake of consistency in election norms. This means that the protection of constitutional rights depends not only on activism, but also on the consistency and predictability of the law.²⁶

The balance between activism and restraint is crucial for several reasons: a) maintaining the legitimacy of the judicial institution so that it is not perceived as a political actor; b) preventing the legislative and executive branch from dominating citizens' rights; c) ensuring consistent law enforcement and the stability of the state system; d) strengthening constitutional democracy through the protection of rights and the control of power. This balance is a crucial requirement for the Constitutional Court to carry out its function as a *guardian of the constitution* while remaining within the framework *separation of powers*.

CONCLUSION

The discussion shows that the pattern and intensity judicial activism as well as judicial restraint The Constitutional Court's decisions develop dynamically according to social needs, legal traditions, and the constitutional context. The Constitutional Court applies an activist approach when dealing with issues concerning the protection of constitutional rights or potential public injustice, as seen in its decisions regarding the status of illegitimate children (MK No. 46/PUU-VIII/2010) and the recognition of customary forests (MK No. 35/PUU-X/2012). Conversely, the Court emphasizes its stance judicial restraint when the issue being tested is within the realm of open legal policy of the legislator, for example in a decision regarding parliamentary threshold (MK No. 53/PUU-XV/2017). This analysis demonstrates that the Court has developed a hybrid pattern of activism and judicial self-control. This pattern allows the Court to progressively protect constitutional rights without neglecting the principle of separation of powers and the policy space of lawmakers.

Further analysis shows that the Court's choice between activism and restraint has a direct impact on democratic governance, the balance of power, and the guarantee of citizens' constitutional rights. Activism strengthens the Court's corrective function, for example when it annulled norms deemed to threaten state sovereignty over natural resources (MK No. 5/PUU-X/2012) or when it expanded the recognition of constitutional rights such as press freedom (MK No. 011-017/PUU-I/2003) and the

²⁶ M. A. Graber, "The Nonmajoritarian Difficulty: Legislative Deference to the Judiciary," *Studies in*

American Political Development 7, no. 1 (1993): 35–72.

principle of non-discrimination (MK No. 97/PUU-XIV/2016). However, in issues that fall within the domain of political policy, the Court has chosen to exercise restraint, such as in the case of the separation of the legislative and presidential election schedules (MK No. 14/PUU-XI/2013) or the consistency of election norms related to voting rights (MK No. 49/PUU-IX/2011). This confirms that the protection of rights is not only supported by activism, but also by the consistency and predictability of the law. Thus, a balance between activism and restraint is an important prerequisite for maintaining the legitimacy of the Court, preventing the domination of other branches of power, and ensuring the stability of the legal system and strengthening constitutional democracy.

REFERENCES

- Amin, Fakhry. "Peran Mahkamah Konstitusi Dalam Menjaga Prinsip Konstitusionalisme Di Indonesia: Studi Putusan Judicial Review Tahun 2019–2024." *Ranah Research : Journal of Multidisciplinary Research and Development* 7, no. 6 (September 2, 2025): 4467–75. <https://doi.org/10.38035/rnj.v7i6.1856>.
- Arifin, Firdaus. "Position and Authority of the Constitutional Court as a Guardian of the Constitution." *Journal of Law, Politic and Humanities* 4, no. 5 (July 25, 2024): 1658–65. <https://doi.org/10.38035/jlph.v4i5.630>.
- Ashfiya Nur Atqiya, Ahmad Muhamad Mustain Nasoha, Ki Awang Pijar Pembayun, Khoridatul Bahiyah, and Muhana Ayu Devita. "Peran Mahkamah Konstitusi Dalam Menjamin Hak-Hak Kewarganegaraan Di Indonesia." *Aliansi: Jurnal Hukum, Pendidikan Dan Sosial Humaniora* 1, no. 6 (November 20, 2024): 302–13. <https://doi.org/10.62383/aliansi.v1i6.611>.
- Cheruiyot, Kipkoech. "Judicial Activism, Judicial Restraint and Constitutional Interpretation in Kenya: The Post-2010 Era." *SSRN Electronic Journal*, 2021. <https://doi.org/10.2139/ssrn.4032620>.
- Choudhry, S. (Ed.). *The Oxford Handbook of the Indian Constitution*. Oxford University Press., 2016.
- Creswell, J. W., & Creswell, J. D. *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*. SAGE Publications., 2018.
- Graber, M. A. "The Nonmajoritarian Difficulty: Legislative Deference to the Judiciary." *Studies in American Political Development* 7, no. 1 (1993): 35–72.
- Hasibuan, Selamat Sentosa, Nurul Rizki, and Ivanda Yusuf Siregar. "Peran Mahkamah Konstitusi Dalam Penegakan Hukum Dan Mempertahankan Keseimbangan Kekuasaan Dalam Sistem Pemerintahan Indonesia." *El-Mujtama: Jurnal Pengabdian Masyarakat* 4, no. 5 (September 2, 2024). <https://doi.org/10.47467/elmujtama.v4i5.3588>.
- Hutchinson, T., & Duncan, N. "Defining and Describing What We Do: Doctrinal Legal Research." *Deakin Law Review* 17, no. 1 (2012): 83–119.
- "Judicial Activism vs. Judicial Restraint: A Political Science Perspective," 2022. <https://doi.org/10.46632/rlpm/1/1/4>.
- Kmiec, K. D. "The Origin and Current Meanings of Judicial Activism." *California Law Review* 92, no. 5 (2004): 1441–1477.
- Prabowo, B. S. "Menggagas Judicial Activism Dalam Putusan Presidential Threshold Di Mahkamah Konstitusi." *Jurnal Konstitusi* 19, no. 1 (2022): 93. <https://doi.org/10.24127/jk.v19i1.11111>.

- 19(1), 073.
<https://doi.org/10.31078/jk1914>
- Sinha, Manoj Kumar S. “Judicial Activism vs. Judicial Restraint: A Comparative Review of Landmark Cases.” *Indian Journal of Law* 2, no. 4 (August 31, 2024): 103–8.
<https://doi.org/10.36676/ijl.v2.i4.49>.
- Stone Sweet, A. *The Judicialization of Politics*. Oxford University Press., 2019.
- Sunstein, C. *One Case at a Time: Judicial Minimalism on the Supreme Court*. Harvard University Press, 1999.
- Tushnet, M. *Weak Courts, Strong Rights: Judicial Review and Social Welfare Rights in Comparative Constitutional Law*. Princeton University Press, 2009.