

To what extent are judges politically neutral? essay sample

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In theory there should be no 'political' role for judges, but in practice there is. Ministers and their departments can break the law, MPs can be charged with breaking laws about election expenses and civil servants can be charged with handing over secrets about their political 'bosses'. A member of the judiciary has to decide whether they will be charged and, if so, what they will be charged with, and also has to preside over the trial and death with sentencing if they are found guilty.

Judges' decisions can make life easy or difficult for ministers, MPs and civil servants, so in this respect their decisions are bound to be 'political'. One example was when the Thatcher government tried to ban key civil servants working at GCHQ, the top-secret government communications centre, from joining a trade union. It was a judge who had to rule whether the government had the power to take away this 'right.'

Judicial independence and neutrality is an important theory – that all judges must be independent from any outside pressures, such as from a political party or cabinet minister. They may well have to sit in judgment on a politician or minister, so it is important to the political system that judges are not dependent on politicians or ministers for pay, promotion or keeping their job. Judges' decisions should be made without any fear of reprisal, however unpopular these decisions might be with a government or a political party.

There are concerns that the most senior judge – the lord chancellor – is essentially a party politician and a member of the executive as well as the legislature (in this case the House of Lords. Inevitably, there is fear that <https://assignbuster.com/to-what-extent-are-judges-politically-neutral-essay-sample/>

appointments and promotions will advance those who favour the Lord Chancellor's government and party. In addition there is a concern that the vast majority of judges are male, white, elderly, public school educated graduates at Oxford or Cambridge University, from a wealthy, upper class background and products of a legal system where promotion favours the rich and well connected.

The feelings of some critics is that the factors listed above mean that judges cannot be independent or neutral, as their thinking is bound to favour other member's of the ' establishment' or ' governing classes'.

The method of appointment of judges is also criticised, as there is no open advertisement for senior judges – the Lord Chancellor takes ' soundings' from other judges about ' suitable' candidates. The Lord Chancellor's ruling that he will not answer questions on judicial appointments has led to calls for an elected and accountable ' minister of justice', who is not a lawyer, to take charge of the judicial process in the UK, as in the case in other EU countries.

Judges or senior lawyers are frequently used to chair major public inquiries.

This important role of the judiciary can again be seen as very ' political'.

Example, Lawrence inquiry into the death of Stephen Lawrence, the Paddington Rail Inquiry and the Kennedy inquiry and the Kennedy inquiry into the deaths of babies in Bristol hospitals.