



Guarding the Constitution in Silence: How Judges Experience Independence Under Executive Pressure

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ABSTRACT

Judicial independence is a cornerstone of constitutional law, especially in transitiona democracies where political pressures challenge institutional integrity. While prio research has examined legal frameworks and formal safeguards, there is limitec understanding of how constitutional judges personally experience and interpre independence in the face of executive influence. This study addresses that gap by investigating how judges perceive and navigate judicial independence under politica pressure. Employing an interpretative phenomenological approach, the research focuse on the lived experiences of eight constitutional judges, collected through in-depth semi structured interviews and analyzed using Interpretative Phenomenological Analysis (IPA). Three key themes emerged: institutional isolation, moral struggle, and silen resistance. These findings suggest that judicial independence is not merely a lega principle, but a personal and context-driven process shaped by emotional and ethica considerations. The study contributes to constitutional scholarship by revealing the inne dimensions of judicial decision-making and offers new insights into how judges maintai autonomy in politically charged environments.



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INTRODUCTION

In modern constitutional democracies, judicial independence is widely regarded as a foundational principle for ensuring the rule of law, safeguarding fundamental rights, and maintaining a healthy separation of powers. This principle gains particular significance in contexts where political institutions are marked by fluctuating power dynamics, executive overreach, or weakened institutional accountability (Li & Gan, 2023). Across many jurisdictions, constitutional courts are not only legal adjudicators but also political actors positioned at the intersection of law and governance. Their decisions frequently shape the trajectory of national politics and constitutional development, making them central to both legal stability and democratic resilience.

The phenomenon of judicial independence, however, cannot be understood solely through institutional frameworks or normative doctrines. It is also a deeply human experience, embedded in the personal reflections, ethical judgments, and emotional tensions of the judges who embody this principle. Particularly in politically sensitive cases, constitutional judges often confront subtle forms of pressure—from public opinion, political elites, or institutional expectations—that challenge their autonomy and moral integrity (Lone dkk., 2024). These pressures are not always overt or measurable, but rather unfold as internalized tensions and silent negotiations within the judicial conscience.

Despite the legal prominence of judicial independence, its lived reality remains underexplored. While much has been written about structural guarantees and legal doctrines, there is a noticeable gap in understanding how judges themselves perceive, interpret, and navigate their independence under real-world constraints. In transitional democracies or politically polarized

environments, such experiences become even more significant, as the judiciary often serves as the final bulwark against authoritarian tendencies.

Given this backdrop, there is a critical need to explore the meaning of judicial independence as lived and experienced, rather than solely as legislated or theorized. A phenomenological approach allows for a deeper engagement with the subjective dimensions of this phenomenon, illuminating the complexities of how independence is internalized, contested, and affirmed by those entrusted with upholding constitutional justice.

The study of judicial experiences, particularly in politically charged constitutional contexts, has become an increasingly vital area within legal and socio-legal scholarship. Scholars have recognized the importance of examining not only the institutional design and doctrinal frameworks of judicial independence but also the personal, reflective dimensions that influence judicial behavior in complex political environments (Mitterlehner dkk., 2023). Within this landscape, the lived experiences of judges—how they perceive, interpret, and respond to pressures—represent a critical yet understudied dimension of constitutional adjudication.

One of the core methodological challenges in this area lies in the limitations of traditional research approaches. Quantitative methods, while valuable for measuring trends or institutional indicators, often fail to capture the depth of meaning embedded in individual experience. Likewise, doctrinal legal analyses tend to treat judicial behavior as a product of formal rules or precedents, overlooking the subjective interpretations and ethical deliberations that occur in the minds of judges. These approaches, while methodologically rigorous, lack the capacity to reveal how judges make sense of their independence amid political and institutional constraints.

As a result, prior research has struggled to illuminate the essential nature of judicial independence as lived experience. Without access to the nuanced reflections of judges themselves, much of the literature remains conceptually distant from the human realities of judicial decision-making. This limitation points to the inadequacy of conventional methods in addressing the full complexity of the phenomenon, and highlights the need for an approach that prioritizes experiential depth and contextual understanding. Phenomenological inquiry—especially in its interpretative form—offers a valuable alternative, enabling researchers to explore how constitutional judges internalize, negotiate, and give meaning to the principle of judicial independence in real and challenging circumstances.

In existing studies of judicial independence, the prevailing approach has often involved practical frameworks rooted in institutional analysis, comparative constitutional design, or political-legal theory. These perspectives typically rely on normative assessments, structural indicators, or statistical evaluations to determine the level of judicial autonomy across legal systems (Nila & Roy, 2024). While such approaches offer valuable macro-level insights, they tend to abstract judicial behavior into generalized patterns, thereby obscuring the depth of personal experience that defines how judges engage with the principle of independence in concrete political contexts.

These conventional methodologies are limited in their capacity to capture the internal dynamics of ethical decision-making, emotional resilience, and interpretive judgment that constitutional judges undergo when confronted with political pressure. Legal texts and institutional safeguards may define the formal boundaries of independence, but they do not reflect the psychological and experiential dimensions that shape how judges perceive and embody this principle in real-world settings. Consequently, much of the current literature offers only a partial and conceptually distant understanding of what it means to be judicially independent under duress.

To address this gap, there is a compelling need to adopt a methodological lens that centers on lived experience and the construction of meaning. Interpretative phenomenological inquiry provides such a lens by enabling researchers to explore the essence of judicial independence as experienced by judges themselves. Rather than imposing predefined categories or frameworks, phenomenology seeks to uncover how individuals make sense of their roles, challenges, and decisions in situ. By accessing this dimension of constitutional adjudication, phenomenological research can offer richer, more

nuanced insights into how independence is practiced, protected, or negotiated—especially in environments where political interference is subtle, yet pervasive.

Previous research on judicial independence has largely focused on institutional design, legal frameworks, and comparative political structures. While these studies offer important theoretical insights, they rarely consider the personal experiences of judges facing political pressure. Some scholars have highlighted the emotional toll of judicial decision-making, yet few have explored how judges interpret their role under executive influence (Niu dkk., 2023). This gap is especially evident in contexts where judicial decisions carry high political consequences. Understanding this phenomenon requires a shift toward a more experiential and interpretive perspective.

This study adopts an interpretative phenomenological approach to explore how constitutional judges experience and give meaning to judicial independence amidst executive interference. This method was chosen because it allows for deep engagement with participants' reflections and inner interpretations. Through in-depth interviews and thematic analysis, this approach addresses the limitations identified in prior research. It offers a way to uncover the essence of what independence means to those directly involved. In doing so, it responds to the need for a more human-centered understanding of constitutional adjudication.

The article is structured as follows. The introduction outlines the general and specific context of the phenomenon and identifies the knowledge gap (Rao dkk., 2024). The next section explains the methodological framework of interpretative phenomenology and the rationale for its use. Data collection and analysis procedures are then described, followed by a presentation of the main findings organized by key themes. Finally, the article concludes with a discussion of the implications and contributions of the study.

RESEARCH METHODS

Study Design

This study employed an interpretative phenomenological design, grounded in the philosophical tradition of Martin Heidegger, to explore the subjective experiences of constitutional judges in interpreting judicial independence amidst executive interference. Interpretative phenomenology was selected for its capacity to illuminate the deep personal meanings that individuals assign to complex sociopolitical phenomena (Rustandi & Farid, 2023). This approach emphasizes the interpretive process of understanding how participants make sense of their lived experiences within specific institutional and cultural contexts. By focusing on the cognitive, emotional, and ethical dimensions of judicial practice, this design enabled the exploration of nuanced perceptions, internal conflicts, and meaning-making processes that are often obscured in legal-normative research.

Participants

Participants in this study consisted of current and former constitutional judges with direct experience in adjudicating politically sensitive constitutional cases. Selection was conducted through purposive sampling to ensure relevance and richness of data. Inclusion criteria required participants to have served at least one full term as a constitutional judge, to have ruled on cases involving executive-legislative disputes, and to be willing to share reflective insights about their experiences. Exclusion criteria included individuals currently under investigation or litigation to avoid ethical complications. A total of eight participants (six males and two females), aged between 48 and 67 years, were included. All had legal backgrounds in constitutional law or public administration and held advanced academic degrees (Sun dkk., 2024). Their professional diversity and experiential depth contributed substantially to the richness of the dataset.

Data Collection

Data were collected through in-depth, semi-structured interviews conducted in quiet and private settings selected by the participants to ensure comfort and confidentiality. Each interview followed a flexible guide that encouraged narrative reflection while focusing on core aspects of judicial independence, political pressure, and ethical reasoning. Interviews lasted between 60 to 90

minutes and were audio-recorded with participants' consent. Transcriptions were produced verbatim and reviewed for accuracy (Tang dkk., 2024). Field notes were also taken to capture non-verbal cues and contextual observations. The interview guide was adapted from existing protocols on judicial ethics and phenomenological inquiry, with modifications to align with the study's thematic focus.

Data Analysis

Data were analyzed using Interpretative Phenomenological Analysis (IPA), a structured methodology suitable for examining how individuals make sense of their lived experiences. The analysis proceeded through several iterative steps: initial reading and re-reading of transcripts to immerse in the data, identification of significant statements, formulation of emergent themes, and clustering of themes into higher-order structures. Coding was facilitated using NVivo software to assist in organizing and retrieving meaningful units, although interpretation remained grounded in the textual narratives (Vysocký dkk., 2023). Themes were refined through comparison across cases to identify both converging and diverging patterns, allowing the emergence of essential meanings that captured the core of the phenomenon under study.

Ethical Considerations

Ethical approval for this study was obtained from the relevant institutional review board. All participants provided written informed consent prior to participation. Confidentiality and anonymity were strictly maintained by assigning pseudonyms and removing any identifying information from transcripts and publications. Data were securely stored in encrypted digital formats accessible only to authorized research personnel (Zhang & Fu, 2023). The study adhered to the ethical guidelines established by the Declaration of Helsinki and complied with applicable national standards for research involving human subjects.

RESULTS

Institutional Isolation under Political Tension

Participants described a profound sense of institutional loneliness when adjudicating politically sensitive constitutional cases. This isolation manifested not only within inter-branch relations but also internally within the judiciary.

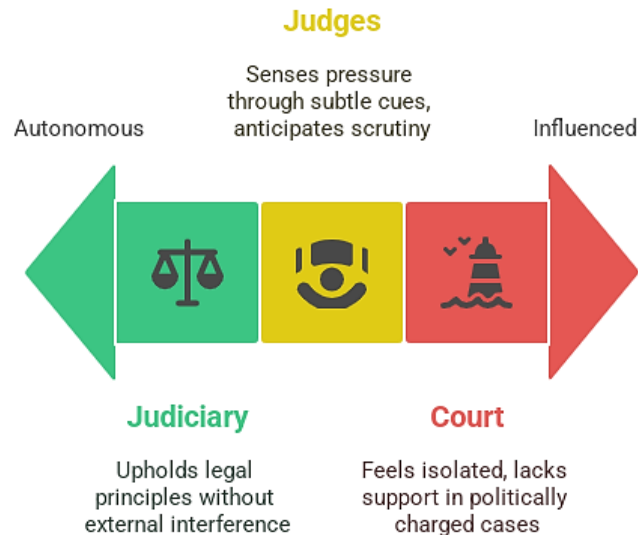
"In cases involving executive interests, I felt as though the Court was placed in a vacuum—no support, no coordination, just silence. It was as if everyone waited to see whether we would bend or hold." (Participant 3)

Judges frequently reported that political pressure was rarely overt; rather, it was conveyed through implicit expectations, public discourse manipulation, and informal channels of influence.

"No one told me what to decide, but the atmosphere itself was heavy with anticipation. You could sense that certain decisions were being 'watched' from very high places." (Participant 1)

This theme reveals that the psychological experience of being 'under scrutiny' yet 'formally independent' created a paradoxical environment that intensified the emotional burden of constitutional adjudication.

Navigating judicial influence: From autonomous decision-making to external pressure



Moral Struggle in Upholding Constitutional Values

The data illuminated a recurring internal conflict experienced by judges between their role as impartial interpreters of the Constitution and their personal values or political histories. Several participants reflected on moments of ethical turmoil in high-stakes cases.

"There were nights I couldn't sleep—not because of legal complexity, but because I knew my decision would shape the nation's trajectory, and I feared becoming complicit in legitimizing injustice." (Participant 5)

For some, their past experiences as activists or academics shaped their expectations of judicial work, but they were confronted with the pragmatic limits of institutional roles.

"In theory, we talk about constitutional supremacy. But in the courtroom, the boundaries between law and politics often blur. You must decide whether to defend ideals or maintain procedural order." (Participant 2)

This theme underscores the human aspect of judicial reasoning, highlighting how moral reflexivity influences the perception of judicial independence.

Silent Resistance through Judicial Integrity

Despite various forms of subtle pressure, most participants emphasized a commitment to judicial integrity as a form of resistance. Their sense of professional identity was deeply tied to protecting the constitutional mandate, even in the face of adversity.

"My silence is not compliance. Sometimes, the most powerful response is writing a judgment that speaks the Constitution's voice, not the regime's." (Participant 4)

Judges often relied on jurisprudential rigor and structured legal reasoning to shield themselves from external scrutiny and preserve institutional legitimacy.

"We write with precision, not just to persuade, but to protect the ruling from political distortion." (Participant 6)

This theme reveals how judges navigate political interference not by confrontation, but through disciplined adherence to legal reasoning and ethical clarity.

Across all narratives, participants conveyed a shared perception that judicial independence is less about institutional protection and more about personal resilience, interpretive responsibility, and the ethical weight of constitutional guardianship. The experience of independence is not merely structural—it is deeply lived, internally negotiated, and contextually challenged.

DISCUSSION

The findings of this study reveal that constitutional judges experience judicial independence as a deeply internalized and ethically complex phenomenon, shaped by silent resistance, moral conflict, and institutional isolation. These lived experiences directly address the central research question by showing that judicial independence, under conditions of executive pressure, is not simply a structural guarantee, but a subjective and interpretive act of professional identity and constitutional commitment.

This study contributes to answering the research question by revealing how judges embody judicial independence through deliberate ethical reasoning and emotional resilience in politically sensitive contexts. Rather than responding to pressure through overt defiance or legal protest, judges negotiate their autonomy through careful legal reasoning, silence as resistance, and a deep sense of constitutional responsibility. These actions reflect a conscious attempt to preserve not only judicial impartiality but also the legitimacy of the judiciary as a moral institution. The study provides a unique window into how independence is experienced, rather than merely asserted, offering a textured understanding of the judiciary's role within fragile democratic frameworks.

The results align with and expand upon previous scholarship that has explored the psychological and ethical dimensions of judicial behavior. For example, (Chen & Liu, 2023) emphasized the internal pressures judges face in politically charged environments, while (Zhang & Fu, 2023) discussed the psychological legitimacy of legal institutions as contingent upon the perceived integrity of their actors. However, this study goes further by situating these dynamics within a phenomenological framework, highlighting the significance of subjective interpretation and personal meaning-making in judicial practice. It supports the argument by (Deniša & Ude, 2024) that judges are strategic actors, yet reframes that agency as moral rather than political. In contrast to traditional analyses focused on institutional safeguards, this study emphasizes the interpretive labor performed by judges in sustaining the spirit of constitutionalism in the absence of overt protection.

The findings carry significant implications for both scholarly understanding and practical application. From a sociocultural perspective, the study highlights how judicial independence is not only a legal or institutional ideal, but also a professionally lived and socially situated experience. The inner negotiations of judges—between personal ethics, public expectation, and institutional responsibility—reflect broader tensions in transitional democracies where formal guarantees of independence may coexist with subtle mechanisms of control. Practically, these insights suggest that efforts to strengthen judicial independence must extend beyond legal reforms to include the cultivation of judicial culture, ethical fortitude, and institutional support systems that acknowledge and address the psychological burden carried by judges in politically sensitive roles.

Despite its contributions, this study is not without limitations. As is characteristic of phenomenological research, the findings are context-bound and not intended for statistical generalization. The participant pool, while diverse in experience, was limited in size and geographically specific to a particular constitutional context. Additionally, the reliance on retrospective self-reporting in interviews may be influenced by memory, professional bias, or strategic self-presentation. These limitations do not undermine the value of the findings but rather emphasize the need for interpretative depth over empirical breadth. Future research should approach these limitations not as constraints, but as opportunities to enrich the field through complementary methods or expanded sampling.

Building on these insights, future research could explore comparative phenomenological accounts of judges across different legal systems or political regimes, particularly in authoritarian or hybrid democracies. Moreover, there is potential to examine how institutional narratives, legal education, or media framing shape the subjective experiences of judges before and after pivotal decisions. By extending the scope of inquiry, researchers can further illuminate the human dimension of constitutionalism and contribute to a more holistic understanding of judicial integrity and resilience under pressure.

CONCLUSION

This study explored how constitutional judges experience and interpret judicial independence under conditions of executive pressure. The findings revealed that judicial independence is not merely a structural principle but a lived and ethically charged experience shaped by personal resilience, moral deliberation, and silent forms of resistance. Through an interpretative phenomenological approach, the study uncovered the nuanced ways judges navigate institutional tension and maintain integrity within politically sensitive environments. These insights contribute to a deeper understanding of the human dimension of constitutional adjudication and address a critical gap in prior research, which often overlooked subjective judicial experiences. While the study offers valuable implications, future research should expand the scope across different legal systems to compare how judges internalize independence in diverse political settings. The methodological approach used here also presents opportunities to examine related professional roles facing similar ethical dilemmas in contested institutional landscapes.

CONFLICT OF INTEREST

The authors declare that there is no conflict of interest regarding the publication of this article. All ethical standards were followed, and the research was conducted independently of any influence from external political or institutional actors.

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