

JACK KNIGHT

Frederic Cleaveland Professor of Law and Political Science

Duke University
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EDUCATION

The University of Chicago	Ph.D.	1989
The University of Chicago	M.A.	1980
University of North Carolina at Chapel Hill	J.D.	1977
University of North Carolina at Chapel Hill (Double Major in English Literature and Religious Studies)	B.A.	1974

PROFESSIONAL EXPERIENCE

Teaching

Frederic Cleaveland Professor of Law and Political Science, Duke University, 2011-

Professor of Law and Political Science, Duke University, 2008-

Sidney W. Souers Professor of Government in Arts and Sciences, Washington University in St. Louis, 2000-2008

Professor, Department of Political Science, Washington University in St. Louis, 1999-2008

Professor of Law (courtesy), Washington University in St. Louis, 1999-2008

Associate Professor, Department of Political Science, Washington University in St. Louis, 1995-1999

Assistant Professor, Department of Political Science, Washington University in St. Louis, 1988-1995

Instructor, The University of Chicago, 1984-1986, 1987-1988

Instructor, The University of Michigan, 1986-1987, 1989-1994

Teaching Assistant, The University of Chicago, 1980-1982

Other

Academic Director, Center for Judicial Studies, Duke University, School of Law 2011-

Department Chair, Department of Political Science, Duke University 2013-

Visiting Faculty, International Center for Business and Politics, Copenhagen Business School 2006-

Visiting Scholar, Russell Sage Foundation 2002-2003

Visiting Scholar, Max-Planck Institute, Bonn, Germany 2000, 2005

Department Chair, Department of Political Science, Washington University in St. Louis, 1999-2002, 2003-2004

Associate Chair, Department of Political Science, Washington University in St. Louis, 1996-1999

Director of Graduate Studies, Department of Political Science, Washington University in St. Louis, 1995-1999

Acting Chair, Committee on Social Thought and Analysis, Washington University in St. Louis, 1995-1996

Lecturer, International Summer School in Political Science, Warsaw, Poland, 1995-1998

Fellow, Center for Political Economy, Washington University in St. Louis, 1989-2008

Member, Committee on Social Thought and Analysis, Washington University in St. Louis, 1991-2005

Fellow, Center for Business, Law and Economics, Washington University in St. Louis, 1993-1996

Visiting Scholar, Center for Ethics, Rationality and Society, The University of Chicago, 1992

Coordinator, Center for Ethics, Rationality and Society, The University of Chicago, 1986-1988

Attorney, Peninsula Legal Aid Center, Hampton, Virginia, 1977-1979

PUBLICATIONS

Books

The Priority of Democracy: Political Consequences of Pragmatism (with James Johnson), (Princeton University Press/Russell Sage Foundation), 2011.

Designing Democratic Government: Making Institutions Work (co-edited with Margaret Levi, James Johnson and Susan Stokes) (New York: Russell Sage), 2008.

Courts, Judges and Politics (co-edited with C. Herman Pritchett, Walter Murphy and Lee Epstein) (New York: McGraw-Hill, 6th Edition), 2005.

The Choices Justices Make (with Lee Epstein) (Washington, D.C.: Congressional Quarterly Press), 1998.

Explaining Social Institutions (edited with Itai Sened) (Ann Arbor: The University of Michigan Press), 1995.

Institutions and Social Conflict (New York: Cambridge University Press), 1992. [German Translation: Institutionen und gesellschaftlicher Konflikt, (J.C.B.Mohr (Paul Seibeck) Tubingen), 1997] [Chinese Translation: Institutions and Social Conflict, (Shanghai, China: Shangai Peoples' Publishing House/Cambridge University Press), 2009]

Articles

“How Do Courts Establish and Maintain Legitimacy?” in Lee Epstein and Stefanie Lindquist, eds., Oxford Handbook of the Law and Judiciary (New York: Oxford University Press), forthcoming.

“Commentary on Elizabeth Anderson’s *The Imperative of Integration*,” Political Studies Review, forthcoming.

“Commentary on Corey Brettschneider’s *Democratic Rights: The Substance of Self-Government*”, Law, Culture and the Humanities, forthcoming.

“Five Questions” in James Johnson, ed., Five Questions on Pragmatism (New York: Automatic Press/VIP), forthcoming.

“Reconsidering Judicial Preferences” (with Lee Epstein), Annual Review of Political Science, 2013.

“Talking Judges” (with Mitu Gulati), The Legal Workshop - Duke Law Journal March 2010.

“Are Empiricists Asking the Right Questions about Judicial Decision-making?” Duke Law Journal 2009.

“Causal Mechanisms and Generalizations” in Chris Mantzavinos, ed., Philosophy of the Social Sciences: Philosophical Theory and Scientific Practice (Cambridge: Cambridge University Press), 2009.

“On the Priority of Democracy: A Pragmatist Approach to Political-Economic Institutions and the Burden of Justification,” (with Jim Johnson) American Political Science Review (February 2007).

“Institutionalizing Toleration” in Russell Hardin, Stephen Macedo and Ingrid Creppell, eds., Toleration on Trial (Lexington Books, Rowman & Littlefield Publishers), 2007.

“Evaluacion de los Limites de la Democracia Radical,” (with James Johnson) Gestion y Politica Publica [Mexico] 14: 497-526, 2005.

“Institutionalizing Constitutional Democracy: A Strategic Analysis of the Role of the Courts,” (with Lee Epstein) in Irwin Morris, Joe Oppenheimer and Karol E. Soltan, eds. Politics From Anarchy to Democracy (Stanford, CA: Stanford University Press), 2004.

“Building the Bridge from Both Sides of the River: Law and Society and Rational Choice,” (with Lee Epstein) Law and Society Review (2004) 38 (2): 207-212.

“Constitutional Interpretation from a Strategic Perspective,” (with Lee Epstein and Andrew Martin) in Mark C. Miller and Jeb Barnes, eds., Making Policy, Making Law: An Inter-Branch Perspective (Washington, D.C.: Georgetown University Press), 2004.

“Courts and Judges,” (with Lee Epstein) in Austin Sarat, ed., Blackwell Companion to Law and Society (Malden, MA: Blackwell Publishers), 2004.

“The *Mutual* Engagement of Political Theory and Empirical Research,” in Edward J. Mansfield and Richard Sisson, eds., Political Knowledge and Public Interest, Columbus: University of Ohio Press, 2003.

“Trust, Institutions and Institutional Evolution: Industrial Districts and the Social Capital Hypothesis,” (with Henry Farrell), Politics and Society (2003) 31 (4).

“The Norm of Prior Judicial Experience (and its Consequences for the U.S. Supreme Court)” (with Lee Epstein and Andrew Martin), California Law Review (2003) 91 (4): 903-966.

“Childress Lecture Symposium: The Political (Science) Context of Judging,” (with Lee Epstein and Andrew Martin), St. Louis University Law Journal (2003) 47 (3): 783-817.

"Constitutional Borrowing and Non-borrowing" (with Lee Epstein), I-CON, International Journal of Constitutional Law (NYU Law School) (2003) 1 (2): 196-223.

“The Strategic John Marshall (and Thomas Jefferson)” (with Lee Epstein), in Mark Graber and Michael Perhac, eds., Marbury v. Madison: Documents and Commentary (Washington, D.C.: CQ Press), 2002.

“Walter Murphy” (with Lee Epstein), in Nancy Maveety, ed. The Pioneers of Judicial Behavior (Ann Arbor: The University of Michigan Press), 2002.

“Selecting Selection Systems,” (with Lee Epstein and Olga Shvetsova) in Stephen B. Burbank & Barry Friedman, eds., Judicial Independence at the Crossroads: An Interdisciplinary Approach (American Academy of Political and Social Science/Sage Publications, 2002, pp. 191-226.)

"Institutionalizing Constitutional Interpretation", in John Ferejohn, Jonathan Riley and Jack Rakove, eds., Constitutional Cultural and Democratic Rule (Cambridge: Cambridge University Press), 2001.

“Explaining the Rise of Neoliberalism: The Mechanisms of Institutional Change,” in John Campbell and Ove Pedersen, eds., The Rise of Neoliberalism and Institutional Analysis (Princeton, NJ: Princeton University Press), 2001 (pp. 27-50).

“Fostering Trust in a Socially-Diverse Society: Social Norms and the Rule of Law,” in Karen Cook, ed., Trust in Society (New York: Russell Sage Foundation), 2001 (pp. 354-373).

“A Pragmatist Approach to the Proper Scope of Government,” Journal of Institutional and Theoretical Economics (2001) 157 (1): 28-48.

“The Role of Constitutional Courts in the Establishment and Maintenance of Democratic Systems of Government,” (with Lee Epstein and Olga Shvetsova), Law and Society Review (2001) 35: 117-164.

“Comparing Judicial Selection Systems” (with Lee Epstein and Olga Shvetsova), William and Mary Bill of Rights Journal (2001) 10: 7-36.

“The Supreme Court as a Strategic National Policymaker” (with Lee Epstein and Andrew Martin), Emory Law Review, (2001) 50 (2): 583-611.

“Piercing the Veil: Justice William J. Brennan’s Account of *Regents of the University of California v. Bakke*” (with Lee Epstein), Yale Law and Policy Review (2001) 19 (2): 341-379.

“Constitutionalism and Deliberative Democracy”, in Stephen Macedo, ed., Deliberative Politics: Essays on Democracy and Disagreement (Oxford University Press), 2000 (pp. 159-169).

“Suboptimality and Social Institutions: The Relationship Between Cognition and Context,” in Manfred E. Streit, Uwe Mummert and Daniel Kiwit, eds., Cognition, Rationality and Institutions (Berlin: Springer-Verlag), 2000. (pp. 11-26)

“Distribution Fights, Coordination Games and Lobster Management” (with James Acheson), Comparative Studies in Society and History, (2000) 42 (1): 209-238.

“Toward a Strategic Revolution in Judicial Politics: A Look Back, A Look Ahead” (with Lee Epstein), Political Research Quarterly (2000) 53:625-663.

“Inquiry Into Democracy” (with James Johnson), American Journal of Political Science (1999) 43 (2): 566-589.

“The Bases of Cooperation: Social Norms and the Rule of Law”, Journal of Institutional and Theoretical Economics (1998) 154 (4): 754-763.

“Justice and Fairness”, Annual Review of Political Science (1998) vol.1, pp. 425-449.

“Mapping Out the Strategic Terrain: The Informational Role of Amici Curiae” (with Lee Epstein), in Cornell W. Clayton and Howard Gillman, eds., Institutional Approaches to Supreme Court Decision-making (Chicago: University of Chicago Press), 1998.

"Conflict over Changing Social Norms" (with Jean Ensminger), in Victor Nee and Mary Brinton, eds., The New Institutionalism in Economic Sociology (New York: Russell Sage Foundation), 1998 (pp. 105-126).

“Social Institutions and Human Cognition: Thinking About Old Questions in New Ways”, Journal of Institutional and Theoretical Economics (1997) 153 (4): 692-699.

"Changing Social Norms" (with Jean Ensminger), Current Anthropology (1997) 38 (1): 1-24.

“What Sort of Equality Does Democratic Deliberation Require?” (with James Johnson), in James Bohman and William Rehg, eds., Deliberative Democracy (Cambridge, MA: MIT Press), 1997 (pp. 279-320).

“Explaining Economic Change: The Interplay between Institutions and Cognition” (with Douglass C. North), Legal Theory (1997) 3: 211-226.

"Explaining the Complexity of Institutional Change", (with Douglass C. North) in David L. Weimer, ed., The Political Economy of Property Rights (Cambridge: Cambridge University Press), 1997 (pp. 349-354).

"The Political Consequences of Pragmatism" (with James Johnson), Political Theory (February, 1996) 24 (1): 68-96.

"The Norm of Stare Decisis" (with Lee Epstein), American Journal of Political Science (November, 1996) 40 (4): 1018-1035.

"On the Struggle for Judicial Supremacy" (with Lee Epstein), Law and Society Review (1996) 30 (1): 87-120.

"Models, Interpretations and Theories: Constructing Explanations of Institutional Emergence and Change," in Jack Knight and Itai Sened, eds., Explaining Social Institutions (Ann Arbor: The University of Michigan Press), 1995.

"Aggregation and Deliberation: On the Possibility of Democratic Legitimacy" (with James Johnson), Political Theory (May 1994) 22(2): 277-296. [Chinese Translation: In Yu Keping, ed. 2009. *Deliberative Democracy & Political Development*. Social Sciences Academic Press (Beijing).]

"Public Choice and the Rule of Law: Rational Choice Theories of Statutory Interpretation" (with James Johnson), in Ian Shapiro, ed., Nomos: The Rule of Law (New York: New York University Press), 1994, pp. 244-264.

"Public Goods," in Joel Krieger, ed., The Oxford Companion to Politics of the World (New York: Oxford University Press), 1993.

"Positive Models and Normative Theory," Journal of Law, Economics and Organization (1992) 8(1): 190-196.

Notes and Comments

"The New Institutionalism, Part II" (with Lee Epstein), Law and Courts Newsletter, 1997.

"Comments on Gutmann and Thompson, Democracy and Disagreement", The Good Society, Spring 1997.

"Comments on Segal and Spaeth, The Supreme Court and the Attitudinal Model," Law and Courts Newsletter, 1994.

Book Reviews

Free Markets and Social Justice by Cass R. Sunstein (reviewed in The Law and Politics Book Review)

Empirical Studies in Institutional Change by Lee Alston, Thrainn Eggertsson and Douglass North; Preferences, Institutions and Rational Choice by Keith Dowding and Desmond King; The Theory of Institutional Design by Robert Goodin (reviewed in American Political Science Review)

Game Theory and the Law by Douglas G. Baird, Robert H. Gertner and Randal C. Picker (reviewed in The Law and Politics Book Review)

Collective Action by Todd Sandler (reviewed in American Political Science Review)

Social Norms and Economic Institutions by Kenneth J. Koford and Jeffrey B. Miller (reviewed in American Political Science Review)

The Economic Structure of Corporate Law by Frank H. Easterbrook and Daniel R. Fischel (reviewed in The Law and Politics Book Review)

Weber, the Ideal Type and Contemporary Social Theory by Susan Heckman (reviewed in Ethics)

The Sociology of the State by Bertrand Badie and Pierre Birnbaum (reviewed in Ethics)

Max Weber by Anthony Kronman (reviewed in Ethics)

In Search of the Spirit of Capitalism by Gordon Marshall (reviewed in Ethics)

Capitalist Democracy in Britain by Ralph Miliband (reviewed in Ethics)

The Limits of Capital by David Harvey (reviewed in Ethics)

The Political Economy of Public Choice: An Introduction to Welfare Economics by Robert Sugden (reviewed in Ethics)

Law and Inflation by Keith Rosenn (reviewed in Ethics)

Work in Progress

“In the Absence of Scrutiny: Narratives of Probable Cause” (with Mitu Gulati and David Levi)

“Courts and Institutional Change”

“The Politics of Institutional Change”

“Institutionalizing the Rule of Law”

“Democratic Experimentalism” (with James Johnson)

PROFESSIONAL CONFERENCES AND ACTIVITIES

Papers Presented at Following Conferences:

“Institutions and Economic Change”, University of Hertfordshire (UK) 2013; “The Politics and Ontology of Institutions”, University of Belgrade (Serbia) 2013; “The Sovereign Debt Crisis”, University of Reykjavik 2011; “Accountability and Judging”, Emory Law School 2011; “The Future of Institutional Analysis: In Honor of Douglass North”, Washington University 2010; “Are Empiricists Asking the Wrong Questions about Judicial Decision-making?”, Duke University 2009; “Is Diversity Bad for Toleration?”, Washington University in St. Louis 2008; “Precedent and the Roberts Court”, University of North Carolina at Chapel Hill 2007; “Pluralism and Religion”, CNRS-EHPE (Sorbonne), Paris, France, 2007; “NIE and Development”, Washington University in St. Louis 2007; “The Future of Institutional Change”, Copenhagen, Denmark, 2006; “Homo Politicus and Homo Economicus”, Duke University, 2006; “Institutional Change and the Law”, Northwestern University, 2006; “Must Political Theory Be Democratic?”, Texas A&M University, 2006; “Rebuilding Institutions Under Complexity: Defining Organizations in the New Century”, Centro de Investigacion y Docencia Economicas, Mexico City, 2004; “Comparative Constitutional Courts”, Washington University, 2001; “Issues in Social, Political and Economic Change”, Stanford University, 2001; “Tolerance and Identity”, George Washington University, 2001; “Democracy in the Periphery”, University of California at Santa Barbara, 2000; “The Size of Government”, Max-Planck Institute, Dresden, Germany, 2000; Conference for the Scientific Study of Judicial Politics, 1999; “New Research on Social Institutions”, Copenhagen, Denmark, 1997; “The Unintended Consequences of Policy Decisions”, Bowling Green State University, 1997; “Institutions, Rationality and Cognition”, Max-Planck Institute, Jena, Germany, 1997; “The Political Consequences of Pragmatism”, Washington University in St. Louis, 1996; “Deliberative Democracy”, St. Louis University, 1996; “Constitutions and Constitutionalism”, Tulane University, Murphy Institute of Political Economy Conference, 1995, 1994; Midwest Conference on Critical Theory, St. Louis University, 1994; The Beijer Institute, The Royal Swedish Academy of Sciences, Stockholm, Sweden, 1994; Wallis Institute Annual Conference on Political Economy, University of Rochester, 1993; Society of Social Choice and Welfare Annual Conference, University of Caen, France, 1992; American Political Science Association Annual Meetings, 2004, 2001, 1998, 1997, 1996, 1995, 1993, 1992, 1989, 1986; Public Choice Society Annual Meeting, 1993; International Political Science Association Meetings, 1988; Midwest Political Science Association Annual Meeting, 2003, 2000, 1998, 1997, 1987; Southwest Political Science Association Annual Meeting, 1986

Invited Talks Presented:

George Mason University 2013; Institute of Philosophy and Social Theory, University of Belgrade 2013; University of Paris I-Sorbonne 2013; University of Virginia 2013; World Justice Forum III (Keynote Address, Barcelona) 2011; ESNIE Summer Conference (Corsica) 2011; Western Michigan University 2011; University of North Carolina 2010; Ratio Institute, Stockholm, Sweden 2008; Copenhagen Business School 2007; Duke University 2007; Northwestern University Law School 2007; Duke Law School 2006; Yale Law School 2005, 2002; University of Pennsylvania Law School 2005; New York University 2005; Northwestern

University 2005; Lulea University, Sweden 2004; Columbia University 2003, 2002; University of Colorado (Boulder) 2002; University of California at Berkeley 2002; University of Maryland 2001; University of Oregon 2000; University of Pennsylvania 2005, 1999; Carnegie-Mellon University 1998; Dartmouth College 1998; University of Michigan 1997; Emory University 1997; George Washington University 1996; Rice University 1994; Harvard University 1997, 1993; MIT 1993; Cornell University 1993; University of Rochester 2008, 1999, 1993; The University of Chicago 1999, 1993, 1987; Northwestern School of Law/American Bar Foundation 1992; Columbia University Law School 1991; Stanford University 1989; Washington University in St. Louis, 2009, 1999, 1988.

Discussant at Following Conferences:

World Justice Forum V (The Hague) 2013; "Institutional Diversity and Social Theory, Developing an Ostromian Perspective", George Mason University 2012; Politics, Philosophy and Economics Annual Conference (Tulane University) 2011, 2012, 2013; "Measuring the Rule of Law," University of Texas Law School 2010; "Measuring the Performance of Judges," Duke University School of Law 2010; "World Justice Forum," Vienna, Austria 2009; "The Rule of Law", Yale University 2009; "The Rule of Law", Yale University 2008; "Explanation in the Social Sciences: Philosophical Theory and Scientific Practice", Witten/Herdecke University, Germany 2007; "Politics, Pluralism and Religion," CERI-Sciences Po, Paris, France 2007; "Mobilizing Democracy", Russell Sage Foundation 2006; "Future of the Social Sciences", Washington University in St. Louis 2004; "Globalization and Self-Determination: The Nation-State Under Siege", Yale University 2004; "Political Institutions and Economic Performance", Harvard University 2003; "Informal Institutions and Latin American Politics", Notre Dame University 2003; "Informal Institutions and Politics in the Developing World", Harvard University 2002; "Pragmatism and Deliberative Democracy", American Philosophical Association (Central Division) 2002; "Political and Economic Markets", Stanford University 2001; "Norms and Laws", University of Pennsylvania Law School 2000; "Beliefs, Institutions and Social Change", Washington University in St. Louis, 2000; International Society for New Institutional Economics 1998, 1997; Conference for the Scientific Study of Judicial Politics 2000, 1999, 1998, 1997; "Social Capital, Social Norms and Economic Development", Kennan Center, Woodrow Wilson Institute 1997, 1996; "Rationality and Cognition", Georgetown Law Center 1996; Douglass North Conference, Washington University in St. Louis 1995; "Informal Solutions to the Commons Problem", Political Economy Research Center, Montana State University 1991; "The Politics and Economics of Administrative Law and Procedure", University of Illinois 1991; "The Political Economy of a Good Society", Yale University 1991; "Rights and Liberties: The Work of Amartya Sen", Murphy Institute, Tulane University 1989; "The Importance of Social Norms in Political Theory", The University of Chicago 1989; American Political Science Association Annual Meetings 2013, 2009, 2007, 2005, 2002, 2001, 2000, 1999, 1998, 1995, 1993, 1990, 1989, 1987, 1983; Midwest Political Science Association Annual Meetings 2011, 2002, 2001, 2000, 1999, 1998, 1993, 1990, 1988; American Philosophical Association 2000; Public Choice Society Annual Meetings, 1992, 1991; Social Science History Annual Meetings 2007; International Political Science Association Meetings 1988; "Theoretical Approaches to American Social Politics", Center for the Study of Industrial Societies, The University of Chicago 1984

Other

Editor, NOMOS (American Society of Political and Legal Philosophy) 2012-

Associate Editor, Politics, Philosophy and Economics 2010-

Editorial Board, Law and Contemporary Problems 2008-

Editorial Board, Rationality and Society 1997-

Co-Editor, Journal of Law, Economics and Organizations 2001-2007

Editorial Board, American Journal of Political Science 1998-2006

Research Scholars Group of World Justice Project 2010-

Referee for Ethics, American Political Science Review, American Journal of Political Science, Journal of Politics, Journal of Political Philosophy, British Journal of Political Science, World Politics, International Organizations, American Journal of Sociology, Political Theory, The Journal of Theoretical Politics, Rationality and Society, Comparative Political Studies, Economics and Philosophy, Theory and Society, Canadian Journal of Political Science, Policy Review, Political Research Quarterly, Law and Society Review, Social Science History, Comparative Studies in Society and History, Philosophy, Politics and Economics, Political Analysis, Yale University Press, Cambridge University Press, Princeton University Press, University of Michigan Press, University of California Press, Stanford University Press, Russell Sage Press, Palgrave MacMillan Press, National Science Foundation, MacArthur Foundation

Best Paper Award Committee, Southern Political Science Association, 2009

Program Chair, American Political Science Association Annual Meeting, 2005

David Easton Prize Committee Chair, Foundations of Political Theory Section, American Political Science Association, 2002

Section Organizer for "Political Philosophy" Panels, Midwest Political Science Association Annual Meetings, 1995, 1998, 2003

Selection Committee, Best Paper in Normative Political Theory, Midwest Political Science Annual Meeting, 2008

Co-Coordinator for Normative Political Theory Panels, Public Choice Society Annual Meetings, 1991, 1992.

Consultant, MacArthur Foundation 1998-2002