

COURTS AND THEIR AUDIENCES

Abstract

Courts, especially supreme and constitutional courts, need legitimacy for successfully fulfilling their social roles. Without a sword or a purse they need others to enforce and follow their decisions. Thus, are courts completely passive? Do they need to rely on others to insure their legitimacy, and simply trust the democratic system to do its job? Or, do courts need to go to the extreme and adapt their decisions to the public's preferences so they can protect their legitimacy? Are courts actions are within the narrow confines of the law? This paper contends that the answer to these questions is NO. Thus, that courts are neither completely passive nor go to the other extreme of following public relation considerations when making legal pronouncements.

To answer the above-mentioned questions, this paper proposes a new theoretical framework drawn from organizational theory to analyze courts' relationships to their audiences in their quest for legitimacy and elaborates upon it with the help of secondary literature. Based on this theoretical framework, the paper argues that courts have many tools at their disposal to gain the support of their audiences. These tools allow courts to communicate directly with their audiences in an attempt to convince those audiences not only to support the courts' decisions but also the courts in general. The techniques discussed in this paper include courts' decisions and official reports, actions by individual justices that reflect on the court, and a variety of other methods that go beyond the courts' official roles (e.g. movies and books, courts' buildings, gifts shops, and courts' websites). This paper will argue that the third type plays a major role in convincing courts' audiences to support them. Nevertheless, the paper will emphasize, using these methods may sometimes backfire. Thus, the paper will not only map the variety of techniques that courts' use but will also discuss the ways in which using them can go wrong, and what courts can do to prevent those negative implications.