A Judge on Judging: The Role of a Supreme Court in a Democracy

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Abstract
I am not a philosopher. I am not a political scientist. I am a judge - a judge in the highest court of my country's legal system. So I ask myself a question that many supreme court judges - and, in fact, all judges on all courts in modern democracies - ask themselves: what is my role as a judge? Certainly it is my role - and the role of every judge - to decide the dispute before me. Certainly it is my role, as a member of my nation's highest court, to determine the law by which the dispute before me should be decided. Certainly it is my role to decide cases according to the law of my legal system. But is that all that can be said about my role? Are there criteria for assessing the quality of my work as a judge? Certainly no such assessment should be based on the aesthetic quality of my writing. Nor should the criterion be the number of sources I cite in my decisions. But then what would be a meaningful criterion? What is my role, and do I even have a "role" beyond merely deciding the dispute before me according to the law? These questions occupy me daily as I enter the courtroom and take my seat on the bench. In my twenty-four years of service on the Supreme Court of Israel, I have written thousands of opinions. But am I a "good" judge?

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But do judges even have a role beyond deciding the disputes before them under law? What are the criteria for judging the justices who write opinions for the United States Supreme Court or constitutional courts in other democracies? These are the questions that one of the world's foremost judges and legal theorists, Aharon Barak, poses in this book. In fluent prose, Barak sets forth a powerful vision of the role of the judge. He argues that this role comprises two central elements beyond dispute resolution: bridging the gap between the law and society, and protecting the constitution and d...