

AHARON BARAK

THE JUDGE IN A DEMOCRACY



Name of the Book: *Judge in a Democracy*

Author: Aharon Barak, the president (Chief Justice of the Supreme Court of Israel)

Presenter: Justice Kinley Dorji, High Court

Synopsis of the Book

'The Judge in a Democracy' was published in 2004. The book elucidates criteria for judging the judges. It explores the roles of judges in a democracy very comprehensively, especially in upholding the constitution and democracy. It states how judges have to fulfill the roles to bridge the gap between the 'law and society'. *'The Judge in a Democracy'* should be a must-read in any course or research on judicial and constitutional politics.

Profile of the Author



Aharon Barak was the Chief Justice of the Supreme Court of Israel. He was also a Professor of Law at the Interdisciplinary Center in Herzliya and lecturer of law at the Hebrew University of Jerusalem, the Yale Law School, Central European University, and Georgetown University. He was born on 16 September 1936. He was responsible for establishment of the first law journal. Barak is considered as one of the most brilliant and productive legal expert of

our times. His rulings have influenced all fields of law in Israel and have become research grounds for students across the world. Though extensive legal research, Barak has written lengthy books and articles on judicial interpretation, human dignity, and roles of judges in a democratic society. He also received many prizes including Zelter Prize, Justice in the World Prize.

Profile of the Presenter



Justice Kinley Dorji serves at the Bench of the High Court, Royal Court of Justice. He served as the Judge of Paro District Court and Specialised Court for Criminal Cases (Criminal Bench 2), Thimphu District Court before his elevation to the High Court.

Discourse

Justice Kinley Dorji presented the 46th Session of the Judges Book Club. The book states that judges display liberal, conservative or centrist dispositions according to their field of study and personal backgrounds. Judges play different roles in rendering justice; and can be a source of injustice if the judges are unscrupulous and reckless. The role of judge from examining the outcomes of the elections, to defining the status of a terrorism suspect, the role of judges raises some of the most contentious political issues of our day. It also questions the role of judges beyond deciding the disputes; and asks about the criteria to gauge the justices who wrote significant legal opinions for the United States Supreme Court or other Constitutional Courts. These are few very prominent questions the author poses to identify the crucial role of judges in not only rendering justice by also engineering the society. The book sets a powerful vision on the role of judges by arguing that role of judges is extended to bridging the gap between the law and the society and protection of the Constitution and democracy. While bridging the gap requires adapting the law to complement to social changes; and upholding the constitution and democracy requires the uphold morality, and accountability. He supports 'purposive interpretation' which is in contrast to influential 'originalism'. He also highlights how Supreme Courts in major democracies developed post-World War II, by citing his own examples of how he tried to put his principles; even under the burden of judging on terrorism. The book helps us to recall how the litigants and the larger public subtly try the judges in every case. This mandates us to be more responsible, professional in making reasoned and mindful judgments. This book is not exclusively directed to lawyers and judges alone. It is intended for a wide audience including politicians, bureaucrats, academics, media personnel, law students and those who are interested in the areas of law and contemporary legal issues in Bhutan. Court's decisions are often technical and complex and can be difficult to understand unless one has a legal background.

