Article

United Kingdom, United Courts? Hierarchical Interactions and Attention to Precedent in the British Judiciary

Political Research Quarterly
2020, Vol. 73(3) 714–726

DOI: 10.1177/1065912919853368
journals.sagepub.com/home/prq
SAGE

Ali S. Masood[1] and Monica E. Lineberger[2]

Abstract

Most empirical examinations of hierarchical interactions among the courts are limited to a single judiciary, the American courts. A significant puzzle that remains is the extent to which lower courts in comparative environments follow the legal pronouncements of their court of last resort. We confront this shortcoming by examining lower court adherence to the precedents of the House of Lords in the United Kingdom. As the Law Lords in the United Kingdom primarily oversee a single lower court, the Court of Appeal of England and Wales, this design provides a unique opportunity to assess the factors that influence hierarchical responses to precedent. We offer a framework in which legal, rather than strategic, factors influence the propensity with which lower court judges rely on the precedents of the House of Lords. Using an original data set of over 13,000 lower court responses to the precedents of the House of Lords between 1970 and 2002, our findings challenge the efficacy of principal–agent accounts and shed new light on how horizontal *stare decisis* influences decision-making behavior within the United Kingdom.

Keywords

comparative courts, Court of Appeal, House of Lords, Supreme Court, judicial hierarchy, stare decisis

Contemporary political scholarship is increasingly attentive to the policy impact of legal institutions. A particular focus within the study of law and courts is the extent to which the lower courts within a national judiciary follow the precedents of their court of last resort. Such examinations are informative given the import of *stare decisis* in legitimizing the authority of a newly announced legal rule by the court of last resort. An extensive literature engages the frequency with which the lower courts rely on the precedents of the U.S. Supreme Court (Benesh 2002; Hansford and Spriggs 2006). Other related studies investigate the extent to which lower court decision makers follow or shirk from the precedents of the U.S. Supreme Court (Benesh and Martinek 2002; Bowie, Songer, and Szmer 2014; Corley 2009; Westerland et al. 2010). Despite significant advances in our understanding of the mechanisms that influence how inferior court judges respond to the precedents of the U.S. Supreme Court, other judiciaries lack such a focus. Regrettably, little is known of the extent to which lower court judges in comparative legal environments adhere to the precedents of their court of last resort (but see Bhattacharya and Smyth 2001; Smyth 1999). We address this shortcoming by offering the first systematic assessment of hierarchical interactions within the judiciary of the United Kingdom.

A key assumption within the judicial impact literature is that Supreme Court justices, particularly in the United States, are policy-driven individuals who are interested in the broader impact of their precedents (Baum 2006; Zorn and Bowie 2010). A derivative assumption of these studies is that policy-seeking justices pay particular attention to the impact of their decisions within inferior courts (Lindquist and Klein 2006; Masood et al. 2017). We believe that justices on the House of Lords,[1] like their counterparts in the United States, were interested in the impact of their decisions within the judicial hierarchy. Stated differently, our intuition is that policy-oriented justices on the House of Lords had an interest in having their precedents frequently applied within lower court decisions. As justices on the United Kingdom's House of

[1]Rhodes College, Memphis, TN, USA
[2]University of Wisconsin–Whitewater, USA

Corresponding Author:
Ali S. Masood, Department of Political Science, Rhodes College, 2000 North Parkway, Memphis, TN 38112, USA.
Email: masooda@rhodes.edu

Lords primarily oversaw a single lower court, the Court of Appeal of England and Wales, this institutional design offered a unique opportunity to analyze how judges in the court directly below the House of Lords responded to the precedents of the court of last resort.[2]

Building on prior work on the U.S. courts, we offer a refined framework in which intermediate appellate court responses to the House of Lords' precedents are primarily driven by legal considerations. Our theory departs from the popular principal–agent framework that accompanies most hierarchical examinations of judicial behavior, especially empirical assessments of American courts. Specifically, we argue that rather than strategic motivations, legal factors such as vitality, or prior applications of a precedent, influenced the propensity with which lower court judges adhered to the precedents of the House of Lords. We assemble an original data set of over thirteen thousand observations, between 1970 and 2002, to conduct a first in-depth assessment of hierarchical interactions within the United Kingdom. This thirty-year period allows us to test the expectations on diverse data that include variation in judges appointed by different Lord Chancellors and Prime Ministers from different parties.[3] We find that instead of deferring to the policy preferences of the Law Lords, the vitality of precedent within the Court of Appeal exerted the greatest influence on the implementation of precedent. These results demonstrate that, within the United Kingdom, horizontal factors were the key driver of lower court actions rather than vertical or top-down influences from the court of last resort. More broadly, our analysis offers new insights into hierarchical responses to precedent within comparative courts and a richer understanding of the nature of the relationship between the Court of Appeal of England and Wales and the court of last resort in the United Kingdom.

Institutional Dynamics of the Judiciary of the United Kingdom

Theoretical developments in the American courts raise important questions about judicial interactions within comparative settings. First, are the findings on judicial impact within the American courts idiosyncratic, or are similar trends prevalent within other national judiciaries? Second, can judicial scholars export decision-making theories developed specifically for the U.S. courts and apply them compellingly to comparative courts? The concern with applying U.S.-based theories in comparative environments is that there are differences between national judiciaries in the institutional design, selection processes, and factors that guide the behavior of judicial decision makers across these courts.

The U.S. and the U.K. legal systems are similar in that prior court decisions inform subsequent decisions. However, there are important differences between the two judicial systems. The Appellate Committee of the House of Lords had twelve Law Lords who usually sat in randomly assigned panels of at least five justices. These panels heard, on average, sixty cases a year, which is similar to the raw number of cases heard by the U.S. Supreme Court. By contrast, there were far fewer petitions to the Appellate Committee in the United Kingdom, which reviewed nearly 30 percent of cases from a single Court of Appeal, compared with the plethora of appellate circuits within the United States. With mandatory retirement ages in the United Kingdom, there was a greater degree of turnover, and the selection process to the senior courts and House of Lords rested with the Lord Chancellor and the Prime Minister.[4] We believe that these institutional differences impacted how lower court judges in the United Kingdom interacted with their court of last resort by promoting a greater adherence to legal factors and minimizing incentives to behave strategically.

Our expectation that lower court behavior is grounded in a deference to legal norms stems from the socialization of judges through the selection process and an institutional arrangement unique to the United Kingdom. We argue that the primary mechanism through which judges on the Court of Appeal responded to the precedents of the House of Lords was based on the norm of horizontal *stare decisis*. In fact, Lord Scarman, in *Tiverton Estates Ltd v. Wearwell Ltd.*, offers that the Court of Appeal occupies a central role where "the consistency and certainty of the law depend upon it."[5] From statements such as these, we deduce that appellate court judges are principally concerned with the consistency of law through the regular and correct application of precedent. However, to fulfill this duty, judges in the Court of Appeal must reconcile various factors that may influence their behavior. We explore both why and how appellate court judges rely on legal factors and *stare decisis* as a key factor in making their decisions.

An assumption underlying our account is that judges on the English Court of Appeal have legal and policy preferences, which they pursue within their decisions. However, we also recognize that these lower court decision makers take their role as judges seriously. In fact, interviews with the Lord Justices of the Court of Appeal of England and Wales provide near-universal support to the belief that appellate court judges in the United Kingdom base their decisions on jurisprudential considerations and an adherence to existing, relevant precedent.[6] For instance, Judge A states that:

> precedent matters because that is the way lawyers are taught to think and we were all lawyers; everyone was a barrister before becoming a judge and so are used to framing arguments in terms of precedent—that is the way you think.

In addition to the interviews, appellate court judges in the United Kingdom frequently alluded to the importance of the House of Lords' precedents within the opinions of their decisions. Taken together, previous empirical assessments of judicial decision making and the statements by the judges themselves suggest that any policy preferences that lower court judges in the United Kingdom hope to advance within their decisions can only be done within the confines of the law. This view is consistent with many accounts of U.S. courts that demonstrate that judicial decisions, especially in courts lower down the judicial hierarchy, are increasingly influenced by legal factors (Bowie, Songer, and Szmer 2014; Hettinger et al. 2006; Zorn and Bowie 2010). We contend, however, that several key institutional differences between the U.S. and U.K. judiciaries make law an even more pervasive force in guiding the decision-making behavior of judges in the United Kingdom.

Kornhauser (1995) argues that in a team model of adjudication, all judges agree on the objective of the decision. That is, judges seek to determine the correct outcome of a case. Interviews with the judges of the Court of Appeal of England and Wales corroborate this perspective. However, we believe that two factors, the nature of the selection process and its subsequent effect of professionalization, offer more persuasive support for why the team model explains the behavior of lower court judges in the United Kingdom. First, the process of selecting appellate judges in the United Kingdom differed from the United States in that judges in the Court of Appeal in the United Kingdom were drawn exclusively from the High Court of Justice.[7] We believe that the nature of the selection process to the High Court of Justice, and those judges who were elevated to the Court of Appeal, is conducive to the team model of adjudication by selecting judges based on merit and legal qualifications rather than ideology.

Legal scholars typically characterize the appellate courts of the United Kingdom as a career-based judiciary (Drewry et al. 2007; Salzberger and Fenn 1999). The method and criteria for selecting judges to both the High Court of Justice and the Court of Appeal provide insight into this intuition. Judges on the High Court Bench (i.e., court of first instance) were appointed from a pool of candidates who must first have served a minimum of ten years as a barrister. In reality, the average experience for these judges centered around twenty-five years. After serving as a barrister, judicial candidates were appointed to the High Court based "strictly on merit" and prior record of "service" (Liu and Zhang 2001). That is, most High Court judges were elevated directly from a pool of barristers from elite backgrounds. Prior to becoming a judge on the Court of Appeal, individuals typically spent extensive time serving on the High Court of Justice. Becoming a judge on the Court of Appeal required a formal appointment by the Queen, on the recommendation from the Prime Minister, based on advice from the Lord Chancellor. Typically, the Lord Chancellor discussed the slate of candidates with the sitting judges on the Court of Appeal, as well as members from the legal profession. It is important to note that none of these consultations represented a binding force on the selection of the judge (Bailey et al. 2002).[8] The Queen's role in the appointment process was ceremonial.[9] What this means is that the appointment process was driven largely by merit and prior service. Assuming that the Lord Chancellor was interested in promoting judges of high caliber, we can assume that judicial appointments in the United Kingdom were largely a function of legal, institutional, and legitimacy considerations rather than political appointments.[10]

As judges on the Court of Appeal were directly promoted from the High Court Bench, we contend that these individuals were especially qualified legal professionals who were accustomed to adjudicating legal disputes based on law and precedent, and the merits of the cases that come before them. Thus, judges who accepted appointments to lower tiers of the judiciary were likely those who were seriously motivated with the importance of legal matters. As such, we expect judges selected to serve on the Court of Appeal to generally exhibit a high degree of deference to law, precedent, and the norms of the judicial system. As Judge F notes,

> You follow precedent because it is your duty—that is why you are a judge—you are not there to give the parties your personal view. This duty is socialized into you, and there is probably a heavy element of self selection. People who don't like this way of thinking don't become judges.

Despite the extensive legal and social professionalization of judges in the United Kingdom, a shared objective in getting the law right does not necessarily guarantee an outcome reflecting a shared legal norm. After all, judges have different beliefs and varying approaches to cases. In a team model of decision making, the principal inhibitor to judicial decision making is informational (Kornhauser 1995), where individual judges hold differing information on relevant facts. This means that differences in information or resources could prevent judges from making the correct legal decision. We argue that the second institutional feature of the judicial system in the United Kingdom that increases the extent to which appellate court judges relied on their peers to bridge any informational gaps is part of the professionalization process. Professionalization of Court of Appeal judges occurred in a more intimate setting than its U.S. counterpart. Housed in the Royal Courts of Justice, all Lord and Lady Justices of Appeal worked in the same building and frequently ate lunch with each other or within professional associations

Table 1. Institutional Difference between Common Law Judicial Systems.

	United States	United Kingdom
Number of Supreme Court justices	9	12
Number of appellate judges	175	35
Number of appellate cases	60,000	6,000
Supreme Court petitions	10,000	200
Rate of Supreme Court review	1%	30%
Rate of Supreme Court reversal	61%	44%
Mode of decision making	Full court	Quasi-random panels of five justices
Mandatory retirement age	None (life tenure)	70[a]
Turnover on Supreme Court	Five new justices in nineteen years	Twenty-three new justices in nineteen years
Method of judicial selection	Nominated by President, confirmed by Senate	Appointed by Prime Minister on advice of Lord Chancellor[b]

[a]Through ministerial discretion, judges can keep their positions until the age of seventy-five.
[b]This description is the process of judicial selection that occurred prior to the creation of a Judicial Appointments Commission in 2006. These statistics reflect comparable information for the two judicial systems from 1970 to 2002.

called Inns of Court, of which many judges share membership (Darbyshire 2011; Malleson and Moules 2010). These social relationships also manifested themselves in judicial offices. A common practice for the judges was to gather in a judge's chamber to discuss the case prior to oral arguments. This norm is important because the use of law clerks and the practice of pre-reading, both widely used within the American courts, were not customary in the United Kingdom.[11] These two important aspects influenced the behavior of judges by providing new avenues from which judges could identify and apply relevant precedent. Law clerks serve a critical function in the American courts by identifying relevant precedents that may not have arisen in oral arguments or referenced within the party briefs. By contrast, judges in the United Kingdom did not rely on clerks for their opinions. Instead, judges in the United Kingdom heavily relied on precedents cited within the party briefs, precedents brought up during oral arguments, and precedents the panel members were directly familiar with, which were those previously applied by judges on the Court of Appeal. Therefore, we expect that a key factor that drove a judge's decision to rely on a given precedent was strongly influenced by prior applications of the precedent by peer judges on the English Court of Appeal.

Table 1 lists notable institutional differences between the judiciaries in the United States and the United Kingdom. Compared with the United States, we argue that conditions in the United Kingdom were less conducive for engaging in strategic behavior. First, the ratio of Law Lords in the House of Lords to the number of judges on the Court of Appeal of England and Wales made it challenging to shirk from precedent. While nine justices on the U.S. Supreme Court oversee hundreds of judges on the U.S. Courts of Appeals and the state courts, twelve Law Lords in the United Kingdom primarily oversaw a single court with less than forty judges. This means that there was approximately one Law Lord for every three judges on the Court of Appeal in the United Kingdom. In addition, the rate of review was fairly high, where the Law Lords hear, on average, 30 percent of the cases referred to their Court. With such a small amount of appellate judges to oversee, the ability for the House of Lords to monitor the decisions of the lower court was substantially greater compared with the United States. Second, the use of panels by the House of Lords was an important institutional feature that limits the possibility of any lower court judge anticipating the outcome of a case that advances up the judicial ladder. Panel assignment in the House of Lords has shifted throughout history, but research suggests that even the Law Lords were unsure of how panels were formed (see Clarry and Sargeant 2016; Darbyshire 2011; Paterson 2013). In the 1970s, panel construction was overseen by the Permanent Secretary and the Clerk of the Judicial Office, who would send suggestions to the Lord Chancellor who would then send out invitations to the Law Lords. In the 1980s, panel assignment was delegated to the Senior Law Lord. Typically, these panels were assembled based on availability and specialization of the justices (Blom-Cooper et al. 2009). In fact, the specialization of the justice was the best predictor of panel assignment, instead of factors such as ideological proximity to the President of the Court, which had a null effect (Hanretty 2017). Even specialization was not a perfect indicator of what the composition of the panel may look like. Thus, at best, appellate judges would have been able to predict one or two of the Law Lords who would be invited to the case based on specialization, but not the composition of the panel majority.

Moreover, not only did panel composition vary by case, but the size of the panel changed depending upon the nature of the case. The House of Lords typically sat on a panel of five justices and, only in exceptional circumstances, employed a panel of seven or more justices.[12] Such an institutional arrangement suppressed the potential for strategic motivation by lower court judges to avoid reversal by the court of last resort, as judges on the Court of Appeal would have found it incredibly difficult to predict the ideological composition of the House of Lords panel that would have reviewed their decision.[13]

Interviews with the judges on the English Court of Appeal also suggest that they were unable to identify which Law Lords would sit on a case. Moreover, the judges stated that a fear of reversal played no role in their decision-making process. One judge on the Court of Appeal offered, "I don't think judges worry about being reversed—it is simply part of your profession—no one goes through their career without being reversed. The important thing is that you want to get it [the decision] right." Judge C adds, "you rarely know the preferences of the lords well enough to predict what they decide—and you have no way of knowing which group of five lords will sit if your case is heard." Judge D conveys a similar sentiment:

> I almost never consider the possibility of reversal—such a tiny percentage of our judgments are reviewed and it is usually hard to predict which ones will go up that it would be a waste of time to speculate what might happen on review.

Similarly, Judge E states, "if the lords want to reverse that is fine with me. I have absolutely no fear of reversal." The judges on the English Court of Appeal unanimously maintain that a deference to law and precedent is what ultimately guided their decisions. The judges add that the adopted practices on the Court of Appeal encouraged them to adopt the behavior of their peers, which ultimately fostered a strong adherence to institutional norms.

The Behavior of Lower Court Judges

Thus far, we have argued why judges were likely to defer to legal norms in the United Kingdom by examining the nature of the selection process that produces a certain category of judge, as well as the institutional design of the judiciary that emphasized fidelity to the law. Given our assumption that lower court judges perceive the goal of their position as a normative duty to create consistency within the law, we contend that their decision-making process should be impacted by factors that maximize the strength of the law. We contend that the principal factor in determining the extent to which judges on the Court of Appeal were likely to adopt a precedent of House of Lords is how previous panels of judges within the Court of Appeal interpreted a given precedent. Research on the U.S. courts demonstrates that the vitality of a precedent consistently impacts how the appellate courts apply the Supreme Court's precedents (Westerland et al. 2010). Precedents that have been interpreted positively impact the legal strength of a precedent. We expect that such "vital" precedents are more likely to be applied in subsequent cases that come before the English Court of Appeal. The intuition behind this expectation is based on two factors. First, when a panel of Court of Appeal judges either positively or negatively applied a House of Lords' precedent, their action impacted intra-court law. As such, horizontal *stare decisis* should have encouraged similar patterns of behavior within the instant court in future decisions (Hettinger et al. 2003, 2006; Kornhauser 1992). As Judge G notes, "precedent of other appeals court [panels] and the House of Lords is strictly binding" in subsequent cases, which highlights the import of horizontal *stare decisis* for judges on the Court of Appeal.

Our next expectation is on the length of a House of Lords' precedent. The primary purpose for citing a precedent is to support, confirm, or distinguish the legal reasoning used within the original decision. The length of precedents can be a useful proxy for determining whether a precedent is applicable to diverse factual situations. Short precedents often represent decisions where a case is dismissed or is limited to a situation in a way such that an extensive legal discussion is not required. Conversely, lengthier precedents may indicate that a given precedent may be more applicable to a wider set of factual situations and, thus, may be expected to increase the propensity with which judges on the Court of Appeal were likely to rely on a given precedent. We believe that longer opinions will often provide more specific information to litigants who can incorporate the arguments from the majority opinion in future petitions to the Court of Appeal. Ultimately, if litigants were more likely to rely on lengthier precedents, by distillation, judges on the Court of Appeal should have also more frequently incorporated these precedents within their decisions (Corley 2008; Corley, Collins, and Calvin 2011). We believe that lengthier pronouncements by the House of Lords, ceteris paribus, provided a more detailed justification of the legal authority on which a precedent was based compared with shorter opinions. Therefore, we expect lengthier precedents to be more frequently relied on than shorter precedents by judges on the Court of Appeal.

The Efficacy of Principal–Agent Accounts in the English Courts

If our argument accurately describes appellate behavior in the United Kingdom, then we should also expect a number of factors to *not* affect lower court actions. The

premise of our argument lies in the incentives that judges confront when deciding how to apply precedent, and that the primary goal with any decision is to affirm and strengthen the consistency and stability of the law. Given the discussion above, we believe that the greatest influence on decision-making behavior stemmed from a deference to horizontal legal norms, instead of the preferences of the Law Lords. Given the prominence of principal–agent accounts within the study of higher and lower court interactions, it would be problematic to simply ignore these perspectives. Therefore, we briefly discuss why vertical-level preferences were less likely to substantially influence the behavior of judges on the English Court of Appeal.

Several types of actions by the Law Lords may be interpreted by lower court judges as signals that indicated the importance of precedent. Hansford and Spriggs (2006) demonstrate that positive Supreme Court interpretations of a precedent increase the likelihood that a precedent is applied in subsequent decisions by the lower courts. These scholars argue that the Court enhances the vitality of a precedent by reaffirming the precedent. Another potential signal of the preferences of the Law Lords was whether their precedents were issued unanimously or by a divided vote. Previous research suggests that the size of the voting coalition exerts a positive influence on the frequency with which a precedent is applied (see Corley 2009; Kassow, Songer, and Fix 2012). The intuition behind this expectation is that a split decision may signal extreme ideological divisiveness or signify problems with the legal authority on which the precedent is grounded and, as such, may be less persuasive in guiding future decisions.

A cornerstone of the principal–agent framework in studies of the American courts centers around the belief that lower court judges are attentive to the policy preferences of Supreme Court justices who may review their decisions (Songer, Segal, and Cameron 1994). In fact, previous work on the American courts demonstrates that the ideological distance between the enacting and contemporary Supreme Court is an important factor that conditions the behavior of lower court judges. Westerland et al. (2010) find that the ideological incongruence between the enacting and contemporary Supreme Courts provides opportunities for appellate judges to shirk from the Supreme Court's precedents. These scholars conclude that judges on the courts of appeals are most likely to favorably respond to a precedent in accordance with the preferences of the contemporary Supreme Court. Such a logic for appellate court judges adhering to the ideological preferences of the "principal" does not apply to the courts in the United Kingdom. This is because such an argument is premised on the belief that (1) appellate court judges strategically avoided reversal by the highest court, and (2) Law Lords were likely to sanction instances of noncompliance by lower court judges. Given the institutional reality within the United Kingdom where random panels of five Law Lords reviewed a very small number of decisions by the English Court of Appeal, it was improbable that the appellate court judges could have predicted the ideological composition of the House of Lords panel that may have reviewed (and ultimately reversed) their decision. Therefore, there is no compelling theoretical reason for us to expect that judges on the English Court of Appeal systematically engaged in behavior that was deferential to the ideological preferences of the House of Lords in the United Kingdom.

Data and Research Design

We test our theory by examining the universe of Court of Appeal responses to a sample of precedents of the House of Lords. More specifically, we analyze all Court of Appeal responses to a stratified random sample of over 650 precedents by the House of Lords issued between 1970 and 2002. In examining this time period, we are able to test our theoretical implications over a period of time where institutional rules and interactions between and among the judicial hierarchy were relatively stable.[14] We stratify the sample by year and randomly select twenty House of Lords' precedents for each year in the analysis. We obtain case-level data for the precedents of the House of Lords from the High Courts Judicial Database (Haynie et al. 2007).[15] Once we curate the initial data set of the House of Lords' decisions, we then collect original data on Court of Appeal responses to each of these precedents. Using the precedent-year dyad as our unit of analysis, we collect data on the universe of Court of Appeal citations and positive applications of the House of Lords' precedents between 1970 and 2012. This means that there is a single observation for a Court of Appeal response to each House of Lords' precedent for every year a precedent is available in the data set. This yields approximately thirteen thousand observations.

We test our predictions over two outcome variables. The first outcome variable is the number of citations by the Court of Appeal of a House of Lords' precedent. The second outcome variable is the number of positive interpretations by the Court of Appeal of a House of Lords' precedent. To obtain information for these outcome variables, we collect data via "LexisNexis U.K." using their citation service within the "Lexis Law Library," which is the United Kingdom's equivalent to *Shepard's Citations* in the United States. "LexisNexis U.K." collects information on all citations and applications of the House of Lords' decisions. This service includes a typology of interpretations, with specific categories within each part of the typology. A citation to a House of Lords' decision

that does not include any type of substantive interpretation is categorized as "Cited." A decision that substantially applies a particular House of Lords' precedent is categorized as "Followed."[16] We follow the approach of previous studies on the American courts by counting the designation "Cited," "Explained," or "Harmonized" as a lower court citation to a Supreme Court precedent (see Hansford and Spriggs 2006). In addition, we count any explicit positive interpretation of a House of Lords' precedent by the Court of Appeal as a citation to the precedent. For the second outcome variable, we count the designation that the Court of Appeal "Adopted," "Affirmed," "Applied," "Approved," or "Followed" a precedent as a positive interpretation of a precedent. Given that there is overdispersion in the data, we estimate negative binomial models. To account for potential issues of heteroscedasticity, we estimate robust standard errors clustered on each House of Lords' precedent.

Our key prediction is that lower court judges adhere to legal norms within the Court of Appeal in responding to precedents of the House of Lords. To assess the influence of horizontal *stare decisis*, we include a variable that captures the difference between prior positive and negative Court of Appeal interpretations of a precedent. To avoid issues of simultaneity, we lag the vitality variable by one year. Our second expectation is on how opinion length may impact citations and positive interpretations by the Court of Appeal. To measure the length of each opinion, we obtain the starting and ending page for each precedent from the High Courts Database and subtract the end page from the start page. We then add one to this number, so if a precedent starts and ends on the same page the number is not zero. Next, we include a variable to account for the vitality of the House of Lords' precedents. This variable captures the net difference between the number of positive and negative interpretations of a precedent by the House of Lords. We obtain data for this variable via "LexisNexis U.K." and lag it by one year to avoid issues of simultaneity.

To gauge the impact of the ideological distance between the contemporary and enacting House of Lords, we collect data on the party of the appointing Prime Minister for all the Law Lords of the Supreme Court. A value of 0 signifies a Conservative-appointed judge and 1 a Labour-appointed judge. We then take the absolute value of the median ideology of the current Supreme Court subtracted by the median ideology of the Law Lords issuing the precedent to obtain this measure for ideological distance.[17] This variable is negatively bounded at zero, with higher values denoting greater levels of ideological incongruity between the contemporary and enacting House of Lords panel.

We include a variable to assess the influence of the size of the majority coalition on lower court adherence. As the House of Lords adjudicates cases via panels of five or more Law Lords rather than sitting en banc, we generate a variable that captures the ratio of Law Lords that dissent in a given precedent. This variable is constructed by taking the total number of Law Lords who dissent in a case divided by the total number of Law Lords who participate on the panel.[18] We include a variable to assess the potential impact of a precedent that emerges as a result of a reversal of an earlier decision by the English Court of Appeal. This variable captures whether the House of Lords either affirmed or reversed a decision by the Court of Appeal in issuing a precedent, coded as 0 and 1, respectively. In addition, the House of Lords notes within its rules that cases assigned more than five Law Lords indicate, among other things, "a case of great public importance." Thus, we control for the salience of a precedent by including a variable for whether the House of Lords panel that announces a new precedent is composed of more than five Law Lords. A case that is decided by more than five Law Lords is coded as 1, and 0 otherwise. We also include a variable to control for the large number of criminal cases that come before the Court of Appeal. We generate a variable that denotes whether the substance of a case deals with noncriminal issues assigned a value of "0" or a value of "1" if the precedent covers a criminal case. We also include a variable for the age of precedent. The variable is based on the number of years a precedent is in existence, with the issue year coded as 0. Finally, we include age of precedent squared to capture the curvilinear effects for newer and older precedents. We obtain data for these variables, which come from the High Courts Database.[19]

Empirical Results

To what extent did judges on the English Court of Appeal rely on the precedents of the House of Lords? The data indicate that of the 650 sampled precedents, over half received at least one citation by the Court of Appeal and approximately 35 percent of the precedents garnered two or more citations. In addition, approximately 37 percent of the sampled precedents were positively interpreted, at least once, by judges on the Court of Appeal. Table 2 presents additional information on the frequency with which judges on the Court of Appeal relied on the precedents of the House of Lords. As the data demonstrate, positive interpretations significantly outnumber the amount of negative interpretations by the Court of Appeal. On average, a precedent was positively interpreted twice and has less than a 10 percent probability of being negatively applied, compared with a positive application. These data suggest that the behavior of Court of Appeal judges in the United Kingdom closely resembled the behavior of U.S. judges, in that appellate judges in

Table 2. Court of Appeals' Interpretations of the House of Lords' Precedents.

Positive interpretations		Negative interpretations	
Applied	627	Distinguished	94
Considered	695	Not Followed	5
Followed	44		
Total	1,366	Total	99

We obtain these data from LexisNexis CaseSearch by following standard practices in coding treatment data (e.g., Hansford and Spriggs 2006; Westerland et al. 2010).

both judiciaries tend to largely adhere to a precedent of their court of last resort.

Table 3 presents the coefficient estimates for the citation and positive interpretation models, respectively. As the coefficients are not directly interpretable, we calculate the predicted counts for each explanatory variable of interest. The results across both models indicate that appellate court judges in the United Kingdom were attuned to legal and institutional norms rather than a vigorous deference to the preferences of the House of Lords. The substantive results indicate that the vitality of a precedent within the Court of Appeal exerted a meaningful and positive influence on citations to a precedent, whereas the effect of House of Lords vitality is negligible. We plot these effects in Figure 1. While House of Lords' vitality is statistically significant, substantively it is not a strong predictor of Court of Appeals' citations to precedent. This result suggests that House of Lords' interpretations of its own precedents did not increase or decrease the regularity with which appellate court judges rely on a precedent of the House of Lords. Instead, Figure 1 illustrates that it was the vitality of a precedent within the Court of Appeal that exerted a strong, positive influence on the frequency with which the Court of Appeals cited a House of Lords' precedent in future decisions. Specifically, as Court of Appeals' vitality increased from a minimum value of -1 to its maximum of 6, the amount of citations increased to approximately twenty-eight citations.[20] However, recall that our unit of analysis is citations and positive interpretations per precedent-year. As the average number of years for citation (and interpretation) by the Court of Appeal is five years in our data, this means that the full effect of going from the minimum to the maximum value is 140 additional citations to the House of Lords' precedent over time. Needless to say, this represents a very large substantive effect.

The variable for opinion length also exerts a significant effect on the propensity with which Court of Appeal judges cited a precedent. As the number of pages for a House of Lords' decision increased, the number of citations also increased. Going from the minimum to the maximum value of page length increases the number of citations by approximately 1.6 per precedent-year.[21] Given an average of five years of citations for our data, the full effect of an increase per page would be an additional eight citations over time.

Notably, the ideological distance between the contemporary House of Lords and the enacting House of Lords panel does not reach conventional levels of significance. This interesting (non)finding suggests that, unlike the American courts where ideological heterogeneity between the enacting and contemporary Supreme Court provides agency for lower court judges to shirk from precedent, the citation behavior of appellate judges in the United Kingdom was impervious to ideological shifts within the country's highest court (see Westerland et al. 2010). Interestingly, the margin by which the House of Lords issued a decision or the fact that the House of Lords explicitly reversed a lower court decision had any substantive impact on appellate court citation behavior. Taken together, these results indicate that Court of Appeal citations to precedent were not driven by vertical influences. Instead, horizontal influences, such as the actions of judicial peers on the Court of Appeal, seemingly drove attentiveness to precedent.

Table 3 also presents the results for the positive interpretations model. Although positive interpretations occurred more frequently than negative interpretations, positive interpretations remained a relatively rare event. Overall, the results between the citation and the positive interpretations model are very similar. As Court of Appeals' vitality moves from its minimum value of −1 to its maximum of 6, the frequency of positive interpretations increases to approximately 18.6 positive applications as plotted in Figure 2. This effect is multiplicatively higher when we consider that the unit of analysis is "precedent-year," which projects a full effect going from the minimum to the maximum value of ninety-three total positive treatments. Opinion length, age of precedent, and the squared term for the age of precedent all positively influence the frequency of positive interpretations. At the minimum value of one page, the predicted positive interpretations are 0.19 per precedent-year. Yet at its relative maximum of sixty pages, a lengthy opinion results in an increase of 0.62 positive interpretations per precedent-year. This represents an increase of approximately 2.2 positive interpretations over the average age of a precedent. The variables for age of precedent and its transformation exhibit a curvilinear effect as in the citation model.

None of the variables for the House of Lords reach conventional levels of statistical significance. The results for the positive interpretations model provide further confirmation that the overall empirical findings are robust and consistent. Taken together, the consistency in the results between the citation and positive interpretations

Table 3. Court of Appeal Responses to the House of Lords' Precedents.

Variable	Expected direction	Citation model	Positive interpretation model
Court of Appeal Vitality	+	0.751* (0.053)	0.760* (0.053)
House of Lords Opinion Length	+	0.030* (0.005)	0.020* (0.006)
House of Lords Vitality	+	0.191* (0.093)	0.089 (0.095)
Ideological Distance	−	0.114 (0.114)	0.198 (0.109)
House of Lords Vote Margin	−	0.456 (0.229)	0.110 (0.229)
House of Lords Reversal	−	0.059 (0.114)	−0.051 (0.120)
Case Salience		−0.002 (0.564)	−0.487 (0.514)
Criminal Case		−0.176 (0.131)	−0.143 (0.137)
Age of Precedent		0.048* (0.014)	0.041* (0.013)
Age of Precedent^2		−0.001* (0.000)	−0.001* (0.000)
Constant		−2.485* (0.287)	−2.486* (0.302)
Observations		13,377	13,3777
Clusters		600	600
χ^2 statistic		337.94	288.33
Probability $> \chi^2$		.000*	.000*

The table reports negative binomial estimates. The outcome variables are Citations and Positive Interpretations of precedent, respectively. The standard errors, clustered on the House of Lords precedent, are reported in parentheses.
*$p < .05$.

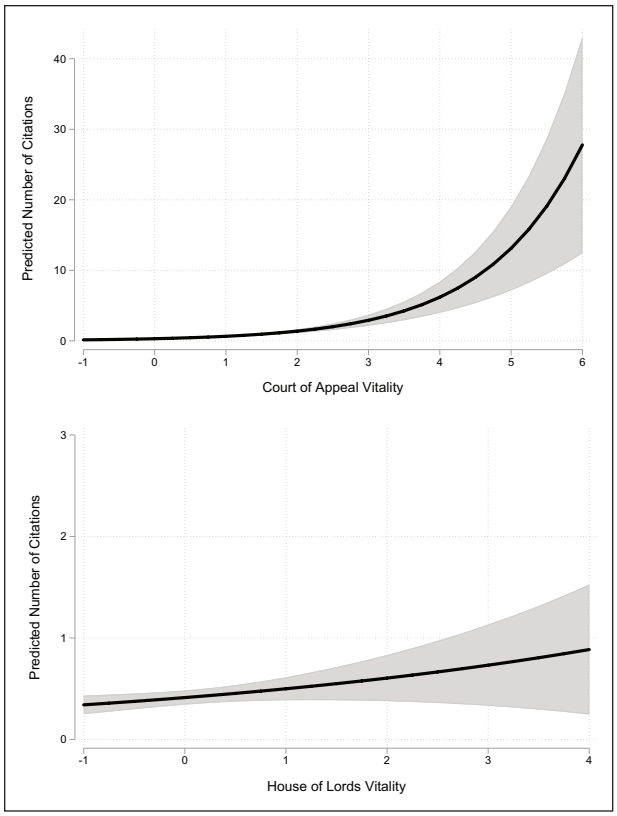

Figure 1. Influences on citations of House of Lords' precedent.
To plot these effects, we generate the predicted counts based on the average of the predicted counts across all real values in the data. The solid line represents the predicted number of citations of House of Lords' precedent per precedent-year. The shaded area represents the 95% confidence intervals.

model strengthens the support of our argument that judges followed legal indicators, such as previous applications of precedent within their own court, rather than any potential signals by the Law Lords. These results suggest that horizontal-level factors, specifically the behavior of peer judges on the Court of Appeal, exerted the greatest influence on lower court implementation of precedent. Broadly, these findings highlight both similarities and key differences in the factors that motivate appellate court behavior within the American and English judiciaries.

Discussion and Conclusion

Judicial scholars devote considerable attention to hierarchical interactions within the American courts. In stark contrast to the still burgeoning literature on the U.S. judiciary, relatively little is known of the interactions between judicial decision makers in comparative courts. Our study bridges this void by offering a framework that seeks to explain how judges on the Court of Appeal of England and Wales responded to the precedents of the House of Lords. Overall, this analysis offers new insights into the nature of the relationship and the factors that influenced lower court responses to the precedents of the court of last resort in the United Kingdom.

In contrast to many existing accounts on the American courts, our findings provide strong evidence against a principal–agent relationship within the judiciary of the United Kingdom. Our analysis challenges the notion that a principal–agent dynamic drove the interactions between the Law Lords and the judges on the Court of

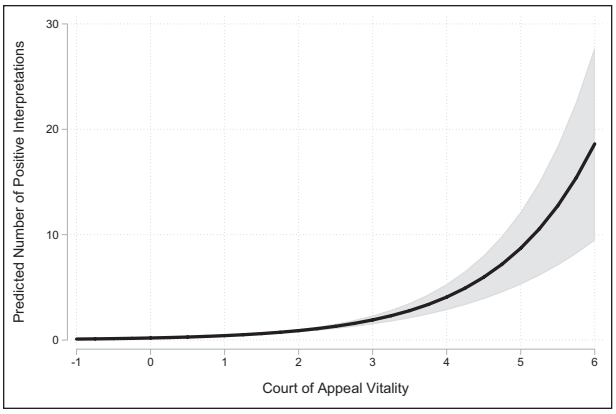

Figure 2. Influences on positive interpretations of House of Lords' precedent.
The solid line represents the predicted number of citations of House of Lords' precedent per precedent-year. The shaded area represents the 95% confidence intervals.

Appeal based on the fact that (1) judges on the Court of Appeal expressed no fear of reversal; (2) Socialization of U.K. judges created a sincere deference to precedent; (3) There was considerable uncertainty about the preferences of the House of Lords panel reviewing the case, if a case was ever reviewed; (4) Some intermediate appellate court judges had little progressive ambitions, and even if they did, (5) promotion in the United Kingdom to the highest court was not based on the ideological proclivities of a judge. Instead, our results support the notion that legal factors exerted the most prominent influence on the actions of judicial decision makers in the United Kingdom.

This analysis suggests that previous studies attribute, perhaps too strongly, a principal–agent relationship in motivating the behavior of judges on intermediate appellate courts to rely on the precedents of the court of last resort. If such principal–agent accounts are true and transportable across national judiciaries, then one would expect a similar, if not stronger, principal–agent effect within the judiciary of the United Kingdom. This is because, unlike the United States where the Supreme Court must monitor multiple appellate courts, within the United Kingdom the top national court primarily reviewed the decisions of a single court, the Court of Appeal of England and Wales. In fact, the judiciary of the United Kingdom embodied even more ideal conditions to test a principal–agent framework given that (1) lower court judges were reviewed at a higher rate than those in the United States, (2) the prospect for promotion was higher, compared with the United States, due to a greater number of positions within the House of Lords and a smaller pool of candidates to select from within the Court of Appeal, and finally (3) the highest Court had a significantly fewer number of agents to monitor. Yet our analysis provides evidence to the contrary. Instead, our results support our intuition that rather than anticipating the preferences of the Law Lords, it was legal factors that drove the decisions of the judges on the English Court of Appeal.

We provide an account in which judges on the Court of Appeal relied on factors developed within their own institution, principally their own patterns of interpretation of precedent. In other words, legal and institutional norms within the lower court influenced the propensity of judges on the Court of Appeal to rely on a given precedent of the House of Lords. We believe that one important mechanism behind this finding is in the selection process of judges within the United Kingdom, who are highly qualified legal, rather than political, appointees. A consequence of such a selection process is the entrenchment of legal norms within the Court of Appeal, where judges seemingly place great import in adhering to legal factors rather than attitudinal or strategic considerations. To measure the influence of legal factors, we test for influences of House of Lords and Court of Appeal vitality. The results strongly support the proposition that influences at the lower court level produce the strongest effect on citations and positive applications to precedent. Our results demonstrate that the vitality of precedent within Court of Appeal was consistently the strongest predictor of an appellate panel's decision to rely on a House of Lords' precedent. These results corroborate previous findings on the American courts on the pervasive influence of prior lower court interpretations of precedent as a key determinant of whether or not lower court judges are likely to rely on a precedent in future decisions.

Overall, our findings are important not only because they corroborate our framework but also because they shed light on the value of conducting comparative studies on the courts. As much of the judicial impact and judicial compliance literature relies on theories specifically formulated for the American courts, this limits our understanding of the interaction between upper and lower courts. While there are some similarities between the judiciaries of the United States and the United Kingdom, these environments are not identical. As such, the factors that influence the propensity of lower court judges within one country to adhere to its court of last resort appear to vary by country. Notably, the magnitude of the effect of horizontal *stare decisis* was greater in the United Kingdom compared with the findings on the American courts (Masood et al. 2017; Westerland et al. 2010). Thus, by testing existing theories in comparative contexts, we are able to discern the extent to which influences on decision-making behavior in the American judiciary are applicable to comparative courts. Moreover, theoretical development on studies on judicial compliance that account for institutional factors helps improve our understanding of hierarchical interactions within the courts, more broadly.

This analysis offers a number of additional contributions to the study of institutions and, specifically, the study of law and courts. First, this study provides a first systematic assessment of higher–lower court interactions within the United Kingdom. We believe that our work should serve as a catalyst for future studies on other national judiciaries both within and outside the European Union. Second, we uncover empirical evidence, supplemented by interviews, that appellate court judges were motivated by legal and institutional norms rather than a fear of reversal. We believe this contributes to a wider theoretical understanding of courts in a comparative context by illustrating that scholars cannot easily assume frameworks developed in the United States are automatically transportable to other countries. Furthermore, our findings highlight the necessity of exploring additional judicial systems to determine what institutional and contextual factors enhance strategic behavior and what factors strengthen a deference to legal norms. Our findings also raise new questions. For one, are our results idiosyncratic to the judiciary in United Kingdom, or do these findings pose a broader challenge to strategic accounts outside the American courts? Resolving this query would seemingly bolster our understanding of a key (political) institution: the courts. The literature lacks such a comparative focus, and future studies should seek to remedy this lacuna.

Author's Note

An earlier iteration of this paper was presented at the annual meeting of the Southern Political Science Association and was the recipient of the 2015 Best Graduate Student Paper Award from the Law & Courts Section of the American Political Science Association.

Acknowledgments

The authors thank Chris Hanretty, Benjamin Kassow, Linda Camp Keith, Bill Mishler, William Myers, Kirk Randazzo, Donald Songer, and the anonymous reviewers at PRQ for helpful comments and suggestions.

Declaration of Conflicting Interests

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author(s) received no financial support for the research, authorship, and/or publication of this article.

Notes

1. The highest court in the United Kingdom until 2009 was the "Appellate Committee of the House of Lords." The Constitutional Reform Act of 2005 set provisions for establishing a new Supreme Court by abolishing the existing judicial functions of the House of Lords. The motivation behind this change was to delineate a clear separation between the "judicial" and "legislative" functions of the House of Lords by changing the name of the court. In 2009, the Supreme Court of the United Kingdom formally replaced the House of Lords as the court of last resort. While the court moved to a new location and adopted a new name, its appellate functions and the vast majority of its membership remained the same.
2. The House of Lords also reviewed some decisions from Scotland's Court of Session, the Court of Appeal in Northern Ireland, and occasionally a few cases from the English High Court and administrative agencies. However, a very small proportion of the House of Lords' decision-making docket originated from these jurisdictions. In fact, according to the High Courts Database, between 1970 and 2002 approximately 90 percent of all decisions by the Appellate Committee of the House of Lords emerged from the Court of Appeal of England and Wales. Approximately six percent of decisions emerged from a review of the appellate courts in Scotland or Northern Ireland, two percent from trial courts, and approximately one percent from administrative agencies.
3. This time period also represents a long and stable period where the institutional norms of the courts and mechanisms of appointment did not vary too greatly. Moreover, the data we use from the High Courts Judicial Database span the time period of 1970–2002.
4. The senior courts in the United Kingdom are the Court of Appeal of England and Wales, the High Court of Justice, and the Crown Court.
5. [1975]1 Ch. 146
6. The quotations are from interviews conducted with ten Lord Justices of the Court of Appeal of England and Wales. All judges were asked the same set of questions. The judges were asked questions on various aspects of the judiciary and decision making, which included questions on bargaining, fear of reversal, adherence to precedent, and judicial selection and advancement. The interviews were conducted with the understanding that no comment would be attributed to a judge identified by any set of characteristics that would reveal the identity of the judge. Thus, the commitment made to the judges was that each would be identified by a single letter.
7. Her Majesty's High Court of Justice is the judicial tier directly below the Court of Appeal of England and Wales. This is a court of first instance and in many ways serves a similar function as the U.S. District Courts.
8. This process was substantially different from the political process that takes place in filling vacancies within the American courts. As judicial scholars are well aware, to fill a vacancy on the U.S. Courts of Appeals, a political actor, the president, nominates an individual who must then be confirmed by another series of political actors, members of the U.S. Senate. Most often, both the nomination and successful confirmation hinge on the ideological proximity of an individual relative to these political actors (see Holmes 2007; Martinek et al. 2002).

9. There is evidence that appointment to the House of Lords and the Court of Appeal was based on prior appointment history (Hanretty 2015). However, prior appointment history likely served as a shortcut for appointments and not an indication of a judge's decision-making behavior.
10. Although the selection process for elevating judges changed in 2006, we believe that the creation of the Judicial Appointments Commission should amplify the effect of promoting judges based on legal considerations, as the motivation for the Commission is to remove the selection process from the political sphere. This would be an interesting test of our theoretical framework under a different institutional setup.
11. In the 1980s, Court of Appeal judges adopted pre-reading practices where parties submitted skeleton arguments. The process is quite different from that used in the United States. See Darbyshire (2011) for additional information.
12. The official criteria for when the Law Lords would consider the use of larger panels were stated in the rules and procedures of the Court. The rules stated that more than five justices may sit on a panel if (1) the Court was being asked to depart or may decide to depart from a previous decision, (2) a case was of high constitutional importance, (3) a case was of great public importance, (4) there was conflict between decisions of the House of Lords, the Judicial Committee of the Privy Council, or (5) a case concerned an important aspect of the European Convention on Human Rights. This information is available at https://www.supremecourt.uk/procedures/panel-numbers-criteria.html.
13. The Court of Appeal does not employ a second-stage en banc process like the U.S. Courts of Appeals.
14. We purposefully do not include the time period after 2006 where a new selection process was put in place via the Constitutional Reform Act of 2005.
15. The High Courts Judicial Database is available at http://www.songerproject.org/data.html.
16. To our knowledge, no previous study uses the citation service from "LexisNexis U.K." to analyze lower court reactions to the House of Lords' precedents.
17. We also estimate models using the difference in mean values between the enacting and contemporary House of Lords and get nearly identical results. In addition, we estimate models using a measure developed by Hanretty (2013). The results are consistent across both measures. We report these models in the appendix.
18. For instance, a unanimous decision will have a vote margin of 0, whereas a decision with two dissenting Law Lords on a five-member panel will equal a vote margin of 0.4.
19. The highest correlation between any two explanatory variables is .398.
20. The true maximum value of Court of Appeal Vitality is 15, but values of 7 or more represent only 2 percent of the variable, and including these values would exaggerate the effect of the variable.
21. We use a maximum value of sixty pages, because 95 percent of the data are distributed within this range.

ORCID iD

Ali S. Masood https://orcid.org/0000-0003-1564-4477

Supplemental Material

Replication data and files can be accessed at dataverse.harvard.edu/dataverse/alimasood.

References

Bailey, Stephen H., Michael J. Gunn, David C. Ormerod, and Jane Ching. 2002. *Smith, Bailey, and Gunn on the Modern English System*. London: Sweet & Maxwell.

Baum, Lawrence. 2006. *Judges and Their Audiences: A Perspective on Judicial Behavior*. Princeton: Princeton University Press.

Benesh, Sara C. 2002. *The U.S. Court of Appeals and the Law of Confessions: Perspectives on the Hierarchy of Justice*. New York: LFB Scholarly Publishing.

Benesh, Sara C., and Wendy L. Martinek. 2002. "State Supreme Court Decision Making in Confession Cases." *Justice System Journal* 23 (1): 109–33.

Bhattacharya, Mita, and Russell Smyth. 2001. "The Determinants of Judicial Prestige and Influence: Some Empirical Evidence from the High Court of Australia." *The Journal of Legal Studies* 30 (1): 223–52.

Blom-Cooper, Louis, Brice Dickson, and Gavin Drewry. 2009. *The Judicial House of Lords: 1876-2009*. Oxford: Oxford University Press.

Bowie, Jennifer B., Donald R. Songer, and John Szmer. 2014. *The View from the Bench and Chambers: Examining Judicial Process and Decision Making in the U.S. Courts of Appeals*. Charlottesville: University of Virginia Press.

Clarry, Daniel, and Christopher Sargeant. 2016. "Judicial Panel Selection in the UK Supreme Court: Bigger Bench, More Authority?" *The UK Supreme Court Yearbook* 7:1–16.

Corley, Pamela C. 2008. "The Supreme Court and Opinion Content: The Influence of Parties' Briefs." *Political Research Quarterly* 61 (3): 468–78.

Corley, Pamela C. 2009. "Uncertain Precedent: Circuit Court Responses to Supreme Court Plurality Opinions." *American Politics Research* 37 (1): 30–49.

Corley, Pamela C., Paul M. Collins, and Bryan Calvin. 2011. "Lower Court Influences on U.S. Supreme Court Opinion Content." *The Journal of Politics* 73 (1): 31–44.

Darbyshire, Penny. 2011. *Sitting in Judgment: The Working Lives of Judges*. London: Bloomsbury Publishing.

Drewry, Gavin, Louis Blom-Cooper, and Charles Blake. 2007. *The Court of Appeal*. London: Bloomsbury Publishing.

Hanretty, Chris. 2013. "The Decisions and Ideal Points of British Law Lords." *British Journal of Political Science* 43 (3): 703–16.

Hanretty, Chris. 2015. "The Appointment of Judges by Ministers: Political Preferment in England, 1880-2005." *Journal of Law and Courts* 3 (2): 305–29.

Hanretty, Chris. 2017. "Panel Selection on the UK Supreme Court." In *Annual Meeting of the European Consortium for Political Research*, 1–39. Oslo, Norway.

Hansford, Thomas G., and James F. Spriggs. 2006. *The Politics of Precedent on the U.S. Supreme Court*. Princeton: Princeton University Press.

Haynie, Stacia L., Reginald S. Sheehan, Donald R. Songer, and Neal C. Tate. 2007. "The High Courts Judicial Database." http://www.songerproject.org/national-high-courts.html.

Hettinger, Virginia A., Stefanie A. Lindquist, and Wendy L. Martinek. 2003. "Separate Opinion Writing on the United States Courts of Appeals." *American Politics Research* 31 (3): 215–50.

Hettinger, Virginia A., Stefanie A. Lindquist, and Wendy L. Martinek. 2006. *Judging on a Collegial Court: Influences on Federal Appellate Decision Making*. Charlottesville: University of Virginia Press.

Holmes, Lisa M. 2007. "Presidential Strategy in the Judicial Appointment Process: "'Going Public' in Support of Nominees to the US Courts of Appeals." *American Politics Research* 35 (5): 567–94.

Kassow, Benjamin J., Donald R. Songer, and Michael P. Fix. 2012. "The Influence of Precedent on State Supreme Courts." *Political Research Quarterly* 65 (2): 372–84.

Kornhauser, Lewis A. 1992. "Modeling Collegial Courts I: Path Dependence." *International Review of Law and Economics* 12 (2): 169–85.

Kornhauser, Lewis A. 1995. "Adjudication by a Resource-Constrained Team: Hierarchy and Precedent in a Judicial System." *Southern California Law Review* 68:1605–29.

Lindquist, Stefanie A., and David E. Klein. 2006. "The Influence of Jurisprudential Considerations on Supreme Court Decisionmaking: A Study of Conflict Cases." *Law & Society Review* 40 (1): 135–61.

Liu, Eva, and Huilin Zhang. 2001. *The Process of Appointment of Judges in Hong Kong and Some Foreign Countries: Overall Comparison*. Research and Library Services Division, Legislative Council Secretariat. Hong Kong.

Malleson, Kate, and Richard Moules. 2010. *The Legal System*. New York: Oxford University Press.

Martinek, Wendy L., Mark Kemper, and Steven R. Van Winkle. 2002. "To Advise and Consent: The Senate and Lower Federal Court Nominations, 1977-1998." *The Journal of Politics* 64 (2): 337–61.

Masood, Ali S., Benjamin J. Kassow, and Donald R. Songer. 2017. "Supreme Court Precedent in a Judicial Hierarchy." *American Politics Research* 45 (3): 403–34.

Paterson, Alan. 2013. *Final Judgment: The Last Law Lords and the Supreme Court*. London: Bloomsbury Publishing.

Salzberger, Eli, and Paul Fenn. 1999. "Judicial Independence: Some Evidence from the English Court of Appeal." *The Journal of Law and Economics* 42 (2): 831–47.

Smyth, Russell. 1999. "What Do Intermediate Appellate Courts Cite? A Quantitative Study of the Citation Practice of Australian State Supreme Courts." *Adelaide Law Review* 21:51.

Songer, Donald R., Jeffrey A. Segal, and Charles M. Cameron. 1994. "The Hierarchy of Justice: Testing a Principal-Agent Model of Supreme Court-Circuit Court Interactions." *American Journal of Political Science* 38 (3): 673–96.

Westerland, Chad, Jeffrey A. Segal, Lee Epstein, Charles M. Cameron, and Scott Comparato. 2010. "Strategic Defiance and Compliance in the U.S. Courts of Appeals." *American Journal of Political Science* 54 (4): 891–905.

Zorn, Christopher, and Jennifer B. Bowie. 2010. "Ideological Influences on Decision Making in the Federal Judicial Hierarchy: An Empirical Assessment." *The Journal of Politics* 72 (4): 1212–21.