4-2014

Urban Politics and the Judiciary: Treating Courts as Endogenous

Christopher Shortell
Portland State University

Urban Politics and the Judiciary: Treating Courts as Endogenous

Abstract:

The study of urban politics often focuses on the ability of urban regimes to successfully pursue their interests and goals. However, scholars of urban politics only peripherally consider the role that courts play. And when courts are incorporated, they are treated as exogenous to the political system. This paper argues for the importance of treating the judiciary as endogenous to the local political system. Courts are themselves political institutions and should be understood as such in the study of politics at the local level. Doing so offers several benefits, including accounting for the ways in which state-level preferences operate as constraints on regimes (or are successfully resisted) and identifying federal regime influence on local politics. The paper identifies the relevant criteria that ought to be collected in order to treat courts as endogenous and offers two case studies of what this would look like in practice.

Christopher Shortell
Associate Professor
Division of Political Science
Hatfield School of Government
Portland State University

Urban Politics and the Judiciary: Treating Courts as Endogenous

Two theories have dominated the study of urban politics over the past several decades-growth machine theory and urban regime theory. These two approaches account for a substantial amount of the research on development in urban settings, with urban regime theory drawing the most attention.[1] Each offers valuable insights into the operation of urban politics. The theories provide a counterpoint to the pluralism model of urban governance in Dahl's *Who Governs?* (1961) and expressly focus on the informal dynamics of politics. Unlike much of political science over the last two decades, urban politics has not been enamored with neo-institutionalism.[2] Stone offers some sense of this when he describes the approach of urban regime theory as:

> …seeking to understand how human agents in a given local context (or range of local contexts) see their situation and choose to act on it. Structures lie behind such activities as framing agendas, building coalitions, devising schemes of cooperation, and making use of and sometimes reshaping interorganizational and interpersonal networks, but the focus is on human agents in action. (2005, 333)

This focus on "human agents" offers real benefits, particularly in identifying the nongovernmental factors such as business coalitions that play an important role in determining the outcomes of urban politics. At the same time, there are some drawbacks to minimizing the consideration of institutions at the local level. If we take the lessons from other areas of political science, we can see how institutions are both shaped by and shape politics in critical ways, and there is no reason to suppose that these dynamics would not be present at the local level as well.

---

[1] There are certainly other ways of studying urban politics, including theories such as regulatory theory or network analysis, but there is broad agreement in the literature that these two approaches are the most common.

[2] Specifically, I mean the notion that the structure and design of an institution has an independent impact on political outcomes.

Some scholars, such as Pierre (1999), Lowndes (2001), and Rast (2009), have pointed this out and argued for greater consideration of urban institutions. In this paper, my purpose is to argue for attention to a particular type of institution and its impact on urban politics- the judiciary.

It is an understatement to say that consideration of the role of the judiciary in local politics has not been a big part of the study of urban politics. Though legal constraints are not ignored at the local level (see, for example, Schleicher 2013's review of the local government law literature), these constraints are treated as exogenous shocks rather than endogenous to the political system. Even case studies where legal decisions have decisive impacts on the outcomes of local politics engage courts no further than to say that a particular decision was handed down or that battles over a particular issue moved to the courts, as though courts were somehow separate from politics (see, for example, Meck 2014; Rast 2006). I argue that the lack of attention to the judiciary as a *political* institution constrains the ability of scholars to understand several important dynamics of urban politics. First, courts often (although not always- an important distinction explored below) reflect and enforce the preferences of state-level regimes, imposing critical restraints on the options available to local regimes, which can in turn be resisted to greater and lesser degrees. This attention to the influence of states on urban regimes echoes the work of Leo (1998) and Gurr and King (1987). Second, the jurisdictions of courts are typically not contiguous with city boundaries, meaning that their operation carries over to suburbs, edge cities, and other forms of urban communities.[3] Third, federal courts provide a mechanism by which national-level regime policies are brought to bear in the local context, another important constraint on available policy options. This too can be resisted at the local level in various ways that are worth exploring. By recognizing that courts are political

[3] In most states, trial courts are organized by county boundaries while appellate courts can be either state-wide or by larger district.

institutions that are part of the ongoing dialogue at the local level, the study of urban politics can be substantially enriched.

In this paper, I will first provide a review of these dominant theories, with examples of the ways in which courts are under-studied in each. I will then develop a set of questions that need to be answered in order to be able to treat courts as endogenous institutions at the local level. I will conclude with some instructive case studies to highlight the dynamics that can be revealed.

Theories of Urban Politics

Of the two dominant theories of urban politics, the growth machine approach is primarily economic in focus while the urban regime approach is the more explicitly political.[4] The first body of literature grows out of Harvey Molotch's classic article "The City as a Growth Machine: Toward a Political Economy of Place" (1976). Molotch argues that "the political essence of virtually any locality, in the present American context, is growth" (1976, 309–310). This position leads to a focus on the conflict within cities over how best to use land. Logan and Molotch (1987) make this explicit in their reformulation of the growth machine theory, identifying the central conflict in the urban environment as between "residents, who use place to satisfy essential needs of life, and entrepreneurs, who strive for financial return, ordinarily achieved by intensifying the use to which their property is put" (1987, 2). Work in this tradition examines who actually holds power at the local level, positing that elites pursue strategies within cities to advance growth (see generally Jonas and Wilson 1999). Peterson's *City Limits* (1981) is

[4] As is common in multiple theories about a particular dynamic of politics, there is substantial overlap and complementariness between these different approaches, though they are distinct in important ways. My purpose here is not to argue the precise boundaries of these theories, but instead to show that neither of them pay sufficient attention to the critical role that the judiciary plays in urban politics.

an offshoot of the growth machine approach, arguing that the dominant interest of cities is development given the many constraints on what cities can do.

Growth machine theory was dominant in the 1970s and 1980s, but the urban regime theory that arose in the 1990s offered a more encompassing approach to thinking about urban politics. The starting point for urban regime theory is often pinned to Stone's classic *Regime Politics* (1989), although there were earlier iterations such as Fainstein and Fainstein (1983). Stone spells out his understanding of regimes at the beginning of *Regime Politics*, describing them as "informal arrangements by which public bodies and private interests function together in order to be able to make and carry out governing decisions" (1989, 6). These are governing coalitions that use informal arrangements to operate through and around existing institutions in order to manage conflict and adapt to change. Stone used the city of Atlanta as an extended case study to demonstrate the ways in which business coalitions and other informal groups worked together as a regime to manage everything from land use to desegregation.

The theory of urban regimes has developed quite a bit since Stone's initial explication. Central to the theory is the understanding that governing capacity is not the same thing as electoral outcomes. Candidates may win elections, but that alone does not ensure the ability to govern. That is achieved by bringing together coalition partners with the necessary resources, both governmental and nongovernmental. This is accomplished in different ways in different cities, depending on the context. Some regimes are maintenance regimes, which do not try to implement any substantial change. Others are development regimes, focused on land use policies and economic growth. It is here that Stone would place growth machine theory (see Dowding 2001, 13). Middle class progressive regimes pursue quality of life policies, while

regimes devoted to lower class opportunity expansion focus primarily on redistributive policies (Stone 1993, 18–22). This is an explicitly political economic approach to understanding politics.

Other scholars have pushed for different emphases within urban regime theory. Imbruscio (2003), for example, calls for more attention to be paid to economic rationales, building on Peterson's (1981) earlier argument. Lauria (1997) called for a combination of urban regime theory and regulatory theory that adopts a neo-Marxian structural approach. Dowding (2001) argues that the greatest attention should be paid to the collective action dynamics of regime members, so as to better understand how they operate. Others, such as Rast (2009), have advocated for more attention to be paid to the role of institutions in regime politics. Stone has consistently responded, offering both defenses (Stone 2004) and developments (Stone 2005; Ward et al. 2011) of the urban regime approach.

The two approaches share a fair amount of common ground. Both are fundamentally elite-driven in nature. The questions motivating scholars in both traditions are focused on highlighting the role of those who hold power and how they exercise it. Indeed, Molotch acknowledges that growth machine theory is "a child of C. Wright Mill's 'power elite' thesis" (Molotch 1999, 248). Both, though urban regime theory in particular, are rejections of the pluralist study of cities, which assume that the policies adopted are a consequence of the aggregate interests of the community. The theories recognize the role that growth has played in urban development and both are broad enough to account for the backlash to growth (Schneider and Teske 1993). Most of the time, the elites that are studied are business coalitions, because they are the ones who possess the majority of resources (Stone 1989, 7; see De Socio 2007 for more on this). There remain distinctions, though. Molotch, in reflecting back on the theory he launched, argued that the growth machine idea makes a substantive argument in a way that urban

regime theory does not. It explicitly offers a claim that power is almost always held by growth coalitions, as opposed to simply offering the form by which power is exercised (Molotch 1999, 249). Stone, on the other hand, considers growth machine theory to be focused on developmental regimes, only one of the possible types of regimes. Urban regime theory is concerned with a broader range of exercised power beyond simply that of growth coalitions. My purpose here is neither to define precisely nor critique the boundaries of either theory. Instead, I am interested in the ways in which treating the judiciary as an endogenous institution can offer a clearer understanding of how urban politics operates. My argument is that both approaches could benefit in substantial ways. First, though, I need to establish how courts are typically treated in this literature.

The Judiciary as Exogenous Shock

When one turns to the specific findings and case studies of these theories of urban politics, how do they treat the judiciary? An exhaustive review is obviously beyond the scope that can be offered here, but a survey of some of the most influential work in each approach is instructive. Obviously, the courts are not relevant to all circumstances at all times, but I will show the ways in which greater consideration of the judiciary could have provided more effective arguments.

As noted above, Logan and Molotch's (1987) formulation of growth machine theory was quite influential in the field. Many of the chapters involve theory-building and a study of how property is used. Chapter 5, however, is titled "How Government Matters." The focus is on regulatory programs, such as zoning, growth control, and environmental impact reports as well as federal incentives. For example, they consider that Houston, Texas is the only major U.S. city

to not have any zoning laws, yet it looks much like other cities in terms of development. Logan and Molotch argue that this is not simply a consequence of market mechanisms working on their own. Instead, existing zoning controls in other cities respond primarily to entrepreneurial pressures in making numerous exceptions and Houston has over ten thousand deed restrictions that can provide restrictions, albeit unevenly (Logan and Molotch 1987, 157–158).

Not mentioned in this discussion of regulatory programs is what, if any, role courts might play. For Houston, the puzzle of why development looks similar to other communities despite the lack of zoning laws may also be a reflection of state-level regulations enforced through legal decisions and the expectation of lawsuits. It could also be shaped by federal judicial interpretations of the Takings Clause of the Fifth Amendment which expand or constrict the remedies available to those opposed to a particular type of development. On the flip side, Logan and Molotch look at the example of Santa Barbara, California as a community hostile to growth. There, too, they find that growth controls have limited impact, highlighting the ways in which water hookup moratoria can be avoided by using agricultural water meters for urban uses or offering variances for claims of special hardship (Logan and Molotch 1987, 161). Absent is any consideration of how and why local courts went along with these variations. Clearly these are viable interpretations of existing statutes, but they are not the only possible interpretations. Why were courts willing to accept these interpretations? Where growth is involved, legal challenges are common, but Logan and Molotch treat the outcomes as a given rather than contested.

Logan and Molotch do mention courts a handful of times in their chapter on government, but always in a way that treats them as something external to the process they are studying. For example, when discussing environmental impact reports (EIR), they note that those opposed to growth can challenge EIRs in court to further delay the process, though there is no consideration

of why some courts might be more receptive to those delays than others (Logan and Molotch 1987, 165–166). When reviewing Urban Development Action Grants, they note the shift in support away from the poorer communities and toward suburbs and Sunbelt cities. This triggers court intervention: "This finally led to court action, which resulted in reforms requiring suburbs to construct low-income housing as a condition of revenue-sharing support" (Logan and Molotch 1987, 173). That is the full extent of consideration of the courts, despite their important role in the ongoing struggles presented by the Urban Development Action Grants.

Logan and Molotch are hardly alone in this respect when it comes to the application of growth machine theory. Peterson (1981), for example, builds his entire approach around the thesis that cities are constrained by state and federal governments and can, therefore, only pursue a limited range of policy approaches, namely development. In defending this argument, he points out the ways in which national parties dominate local elections, leading to one-partyism (Peterson 1981, 113). He offers examples of this focus on growth in the areas of air pollution, trade unions, and the economic crisis of New York City in the 1970s. The judiciary is not considered in any of them. This is particularly striking in the areas of trade unions and city bankruptcy. As both McCann (1994) and Frymer (2008) find, the operation of trade unions have been deeply influenced by federal courts, themselves reflecting national political coalitions. And New York City's bankruptcy took place as a consequence of the Supreme Court's decision that cities and counties, unlike states, do not enjoy sovereign immunity (*Cowles v. Mercer* 1869, *Lincoln County v. Luning* 1890, *Riggs v. Johnson County* 1868). These decisions were enacted in response to particular social and economic pressures on the Court and also reflect the influence of national political coalitions. In this sense, the judiciary is not merely a constraint on the actions of the city, but a product of a broader political system.

More recently, Phelps (2012) sought to integrate growth machine theory with regulatory theory using a case study of Tysons Corner, Virginia.[5] He argues, echoing Lauria (1997), that a growth machine approach pays insufficient attention to structural changes in capitalism. In particular, Phelps is interested in "state interventions and their effects on the private sector and urban politics" (2012, 675). State interventions,[6] including planning and growth strategies, are carefully considered in the case of Tysons Corner emerging as an edge city, but no attention is paid to any interventions from the judiciary. Tysons is a suburb that is divided by numerous other boundaries, including everything from county-level representation to postal codes. One relevant government institution that covers Tysons Corner in its entirety is the judiciary, which has jurisdiction over the entire county. In considering the interbranch relationships that Phelps acknowledges are a key part of the development of Tysons Corner (2012, 693), it would have served the study well to incorporate the legal institutions into understanding change over time.

That is not to say that courts have been completely ignored. Studies focused on the impacts of regulation on housing have paid attention to legal decisions. Ellickson (2005) points out the importance of accounting for court decisions when trying to specify the regulatory factors influencing housing prices. Blumenthal (2014) follows through on this, paying specific attention to courts when discussing residential development in the D.C. area. She goes so far as to include an entire section on the role of the judiciary. She does acknowledge that courts were not a part of her initial study, but were added as a consequence of interviews with those who actually do development work. Courts were mentioned so frequently by her interviewees that she realized she needed to account for the institution in some way (Blumenthal 2014, 92). Indeed, she finds that greater deference by the courts to local control was associated with the presence of more

[5] Phelps straddles the line between growth machine and urban regime approaches, using both, but self-identifies through the title and much of the article more closely with growth machine theory.
[6] Here Phelps uses state to describe government at all levels.

local regulation (Blumenthal 2014, 82). As laudable as this effort was, it still treats courts as exogenous institutions, black boxes from which decisions emerge. So too does Meck (2014), who has the most explicit consideration of court decisions. Meck tracks the *Mount Laurel* doctrine imposing constitutional obligations for affordable housing in New Jersey and the numerous challenges to its continued role in the state. Despite the centrality of court action to this aspect of development, the analysis does not consider the internal politics of the New Jersey courts at all.

Growth machine approaches are not alone in missing important ways that courts are a part of the fabric of urban politics. Urban regime theory is just as guilty. Throughout his extensive study of the city of Atlanta's politics stretching from 1946 to 1988, Stone (1989) mentions courts and court decisions only rarely. The early efforts towards urban renewal were halted by the Georgia Supreme Court, but this gets only a sentence worth of attention (Stone 1989, 39). School desegregation plays an important role in highlighting the operations of the urban regime, but once again courts are treated peripherally. Despite the fact that it was court decisions that prompted the desegregation plan of 1959 and that delayed implementation until 1961, there is not even a distinction made between federal and state courts or an evaluation of how the judiciary served to inject national-level political constraints on local-level decision-making (Stone 1989, 47). Strategy among black leaders within Atlanta regarding desegregation was shaped by expectations about what circumstances might lead to better litigation (Stone 1989, 54–55). Indeed, it is difficult to talk about the process of dealing with civil rights for African-Americans in Atlanta without substantial consideration of the role that courts played.

This is not limited to the discussion of civil rights. When it came to preservation efforts in the early 1980s, the study once again omits courts despite the fact that the U.S. Supreme Court

had recently handed down a decision in New York holding that landmark preservation laws are not a taking (Stone 1989, 126–127; *Penn Central Transportation Co. v. New York City* 1978). While there is acknowledgment that the judiciary was important, there is little in the way of more extended study. This stands out given the care with which Stone considers so many other aspects of the urban regime in Atlanta.

This blind spot regarding courts carries over into other work as well. Stone (2004) praises the pioneering work of Robert Crain on school desegregation. In particular, he notes that Crain was not attempting to trace the development of race relations in the United States or explain how the judicial process became the means by which desegregation was placed on the agenda. Instead, he was examining "how desegregation was handled differently across a range of cities" (Stone 2004, 8). Note how Stone separates the judicial process from how desegregation was handled at the local level. Just a few sentences earlier, he points out the role that Judge Arthur Garrity took on in establishing a new set of civic relationships in Boston to implement desegregation, but this is left and never investigated further to explore why the federal court in Boston was able to and chose to act in this way.

As noted above, Stone is less interested in institutions than some other urban scholars. But even among those who emphasize institutions, courts play a minor role and are largely unexamined. Dowding, though comparative in focus, emphasizes the importance of paying attention to state structures in order to understand the development of local regimes (2001, 15–16). Managerial versus mayoral systems are relevant, but the structure of the judiciary goes unremarked. Rast (2009) uses the earlier work of Skocpol and Skowronek to build the argument that institutions need to be accounted for in urban regime theory. To ignore institutions is to miss how the institutions must fit together with informal power structures in order for urban

regimes to be successful. Rast provides a detailed case study of Chicago from 1946-1962, demonstrating that the efforts to pursue urban renewal were shaped by the nested informal powers and institutional structures of the city. Remarkably, in the midst of the Daley machine, courts warrant only a single mention. That is a reference to a federal suit that was filed by property owners to prevent the urban renewal and Rast merely notes that it was dismissed (2009, 177). At the time, most of the judges sitting in Cook County courts were closely tied with the Daley machine (Royko 1971, 64; Tuohy and Warden 1989, 45–46). It stretches credulity to imagine that the makeup of the courts most likely to decide on urban renewal challenges did not influence the ability of the regime to pursue its goals.

Courts get mentioned more frequently by Rast in another piece (2006). In detailing the lack of a regime in mid-century Milwaukee, Rast repeatedly points out that decision-making over urban renewal, housing, and annexation shifted to the courts and state legislature (2006, 91, 94–95, 98). Despite this, that is where the inquiry ends. Courts are treated as purely exogenous rather than something to be studied in conjunction with the rest of the local political dynamics. The retreat to courts is seen as a removal from local politics.

Even where courts do get mentioned, they are almost exclusively federal courts, despite the far more substantial role that state courts play at the local level. Hochschild (2008) could not be more explicit about this. She states "cities have no court system comparable in importance and visibility to the federal judicial system; how does the relative lack of a judiciary change the study of relations among branches of government? (Hochschild 2008, 324). Stop and consider that for a moment. State judiciaries, which handle the vast majority of legal business in the country, are considered virtually invisible in the operation of local politics.

Though far from comprehensive, the preceding review hopefully establishes that courts are rarely considered by urban politics scholars, and when they are it is only as exogenous institutions not directly relevant to the study of local politics. I have endeavored to also highlight the ways in which incorporating courts in these studies would have offered greater insight into the operation of either the growth machine or the urban regime. In the following section, I will sketch out an approach to treat courts as endogenous institutions for local politics.

Courts as Endogenous Institutions

When considering how to treat courts as endogenous, a good place to start is by recognizing Peterson's (1981) insight that the capacity of cities to act is limited by external constraints. Peterson, however, pays little attention to the specifics of these constraints, moving directly to economic productivity as the primary interest. If we pay attention to those constraints in ways he did not, we can find that the constraints, particularly those presented by the judiciary, are not static. That is, at times the judiciary limits options available to cities, while at other times it creates them. This insight is central to the importance of considering courts as endogenous. What are the reasons for this variation and what needs to be known in order to study it? I will lay out a broad argument regarding the role of courts and then highlight the specific information that scholars ought to pay attention to in order to incorporate courts effectively in their research.

In much of what follows, there are some basic assumptions made, none of which are terribly controversial among scholars of law and courts, but which should be made explicit.[7] The first is that judges engage in interpretation of the law rather than discovering truth within the law. There are multiple possible interpretations of language, although some interpretations are

[7] For a nice summary of many of these assumptions, see Carter and Burke (2010).

foreclosed by the language of a statute. For example, a judge interpreting the constitutional requirement that a representative be twenty-five years of age may engage in some interpretation about whether the candidate must be twenty-five prior to election day or just prior to being sworn in to office, but would not authorize a twenty-three year old to be a representative. The second assumption builds on the first. If there is room for interpretation, then judges will rely on their ideology to guide that interpretation. This is all but impossible to avoid, since an individual's world-view is likely to color any and all interpretations of the world around them. The third assumption is that, regardless of selection method, judges will tend to reflect the ideology of those that place them on the court. If the judge is appointed by a governor, they will have at least a substantial amount of ideological shared ground in common. If a judge is elected by the citizens of a county, they will most likely share the ideological preferences of the majority of the voters. Pickerill and Clayton (2004) offer an example of this dynamic at the federal level when they trace the ways that shifting attitudes about federalism in the conservative regime become reflected in the Supreme Court decisions on federalism in the 1990s. This understanding of the connection between judges and the broader political system is reflected in work such as Graber (1993), Clayton and May (1999), and Whittington (2005), and is fundamental to the approach I am advocating here.

Most frequently, local courts are enforcing state laws. If a citizen of Los Angeles files a lawsuit to block development approved by the city in Los Angeles County Superior Court, the judge is going to look to state statutes that are relevant to determine whether there is a valid claim and what the standards are for resolving that claim. This is a simple example of state-level preferences being enforced at the local level through local courts. Courts can serve to bring state-level regime preferences to bear on city regimes. This isn't the only possible outcome,

however. The judge in this case is likely interpreting a complex statute. Perhaps it was a statute enacted by a previous state-level regime, but one which is disfavored by the current state-level regime. If the judge came into office as a consequence of the current state-level regime, then the judge may choose to interpret the statute in such a way as to diminish its impact on the local regime.[8] Or perhaps the judge represents the local regime's preferences and will defy the existing state-level regime by interpreting a claim narrowly. This is difficult to sustain, though, because of the possibility of appeal to higher level courts that are more likely to reflect state-level preferences.

This can be complicated further. Perhaps the city knows that the local courts are going to reflect state-wide preferences in interpreting the statutes and crafts the proposed development in such a way as to preserve compliance and avoid litigation. This is known as operating in the "shadow of the law" (Mnookin and Kornhauser 1979) and identifies the effects that expectations about litigation have on behavior regardless of whether courts actually become involved. Alternatively, the city could know that the local judges are unsympathetic to strict enforcement of the statute and be more aggressive in crafting the development, less concerned about bad outcomes in litigation. Or national-level constraints could be introduced through the federal courts, even where states might be receptive to a growth machine regime at the local level. Either way, the actual constraint imposed on the city by the state is going to vary depending on the makeup of the judiciary. It is not a fixed constraint, but one that is *politically* determined.

This is why treating courts as endogenous institutions is so important to developing a clear understanding of just how urban regimes operate. It brings the state into the understanding

[8] This does not assume that judges are merely carrying out the wishes of those who appoint them. However, there is a substantial amount of evidence that judges do share the ideological preferences of those who place them on the court. If a current regime views an existing statute unfavorably, it is likely that a judge appointed by that regime will share that ideological disposition. Where the text contains imprecise or uncertain language, the interpretation is most likely to reflect that ideological preference.

of urban politics without dismissing the agency of urban policy-makers. If the constraints imposed on governing coalitions varies depending on the makeup of the judiciary, then the actions of the governing coalition can be expected to adapt to account for those variations. The questions driving growth machine theory and urban regime theory alike are concerned with how power is actually exercised. Ignoring the changing influence of the judiciary is to miss an important piece of the puzzle.

So what are the relevant questions to ask about courts in order to engage them in the study of urban politics? First, there are some characteristics about the cities themselves that ought to be identified. How much independence does the city have constitutionally and statutorily from state oversight? This is typically captured by determining whether the city is operating under home rule and/or Dillon's Rule. This is relevant because it offers insight into how effectively the city might be able to resist the enforcement of state laws. The next question to answer is how closely tied is the urban regime to the state-level regime? Do they share the same policy goals or are they in opposition with one another? Finally, how well do the urban regime's interests align with the interests of the dominant political regime at the national level? Note that these questions can just as readily be asked of suburbs or other forms of urban development, given the fact that the jurisdiction of courts often extends beyond city boundaries. Examining these types of communities would prompt an additional inquiry, though. What is the relationship between the suburb (or edge city, etc.) and the urban regime in the adjacent city? What, if any, are the tensions between those two regimes? Each of these inquiries is necessary to understand how the city is situated in its political context.

Turning to the courts, the first thing to determine is the formal and informal selection method for judges in the state. Formal selection methods generally fall into three broad

categories: election, executive appointment, and legislative appointment. Executive appointments may be done directly by the governor or through some form of merit selection process where the governor is provided with a formal list. Elections may be partisan, nonpartisan, or retention following executive appointment. The informal aspects of selection methods require a bit more attention to determine. For example, many states where judges are putatively elected actually use gubernatorial appointment of vacancies to fill most seats. The largest influence on the make-up of the judiciary in these states, then, is not the voters but the governor.[9] Other informal processes include party control of who has access to the ballot. In some cities with partisan elections, such as Chicago and New York City, local party leaders control the nomination process. Unless a candidate has the approval of the local party leadership, they will not appear on the ballot. In some states with the formal method of merit selection, the nominating committee might be dominated by plaintiff's attorneys or by members of one political party. There can also be variation in both formal and informal selection methods for different levels of courts within the state.

The formal and informal selection method of federal judges does not vary by city, but should be accounted for as well. Traditionally, district court judges are recommended by a home state senator who shares the president's political party. If there is no senator from the president's party in a given state, presidents may reach out to state party leadership. Appellate court judges are usually run past the senators from the affected states, but much less deference is given. This is even truer for the Supreme Court. How judges get on the bench is an important element of treating courts as endogenous. This provides insight into how closely aligned the courts are likely to be to the urban regime.

[9] This is particularly true given the substantial incumbency advantage that sitting judges have on election day.

Moving past the selection methods, there are institutional characteristics of the judiciary that can be of relevance. How long are the terms for the judges? Do judges serve four year terms before facing reelection or do they serve a single eighteen year term? This can vary by the level of court in question. Judges that have sat on the bench for longer may be more likely to reflect the goals of regimes that are no longer in power, while rapid turnover makes it more likely that courts would be closely tied to current regimes. Finally, what is the structure of the appellate courts in the state? Some states have one statewide intermediate court of appeals with mandatory jurisdiction and one state supreme court with discretionary jurisdiction. Others do not have any intermediate courts of appeals and simply have a supreme court with mandatory jurisdiction. Other, larger states might divide up the appellate court by geographical district or even place it directly with the trial courts. As with selection methods, the appellate structure of federal courts also needs to be addressed, although that too is fixed for all cities. Attention to these details helps clarify how and when lower court decisions might be overturned and what level of state-wide control of lower courts is possible through appellate review.

Table 1: How to Treat Courts Endogenously

Information about urban regime:	**Information about judiciary:**
Home Rule/Dillon's Rule/Neither	Formal selection method for state judiciary
Relationship between urban regime and state-level regime	Informal selection method for state judiciary
Relationship between urban regime and national-level regime	Formal selection method for federal judiciary
Relationship between suburban regime and urban regime (where appropriate)	Informal selection method for federal judiciary
	Length of terms
	Structure of appellate courts

Each of these aspects that impact urban politics are summarized in Table 1. Most, such as formal selection methods and term lengths, are relatively straightforward to collect. Others, such as informal selection methods have been studied in a variety of contexts and can be leveraged to better explain urban politics. Some characteristics require a more nuanced study, particularly the relationship and alignment of urban regimes with state and federal regimes. Given the amount of hidden action, particularly when it comes to judicial decision-making, some conclusions about the role of courts would have to remain speculative. Nonetheless, careful attention to these elements promises a richer, more thorough, and ultimately more informative way of understanding the dynamics of urban politics. It can provide an understanding of why growth strategies manifest more successfully in some jurisdictions than others or why some approaches to development are more common than others. In the following section, I trace the outlines of what this might look like in two different case studies to exemplify the explanatory value to be gained from treating courts endogenously.

Courts in Action: Two Case Studies

The following case studies are not intended to be exhaustive, but rather illustrative of the types of inquiries and insights that this approach to urban politics has to offer. The two selected cities offer some variation on the relevant criteria above and each has been the subject of fairly extensive study by urban politics scholars. The first, Portland, Oregon, offers an example of what may be the most common types of interactions between urban regimes and the judiciary, with the judiciary reflecting the priorities of the state regime and constraining the available options for the city. The second, Chicago, Illinois, presents an opportunity to consider how cities might be able to resist the influence of state regimes through careful control of the judiciary.

Portland, Oregon

Considering development within the Portland region today offers an opportunity to demonstrate the role of courts in urban politics. To do so, it is first necessary to specify the criteria laid out in Table 1. Portland is a complex city when it comes to describing its formal features. The city falls within three counties, though each county also contains areas outside the incorporated limits of the city. The city participates in an elected regional governance body called Metro that imposes constraints on what the city can do. Its transit agency, TriMet, covers the region, not merely the city, again connecting the city closely with its neighbors. Portland, along with all other Oregon cities, has had home rule since 1906, indicating some autonomy from state direction (Diller 2008).

The city does have an urban regime, although one that has strong regional characteristics. Leo (1998) describes the regime as a growth management one rather than a growth machine. The urban regime largely reflects the progressive tradition within the state (Clucas and Henkels 2005), though the conservative populists are well-represented in the outlying suburbs within the counties.[10] The progressive regime of Portland has a mixed relationship with the state-level regime. Oregon has elected Democratic governors consistently since the mid-1980s, although the state legislature has switched hands between the Democrats and Republicans more frequently over that period. Despite this state-wide dominance, the actual operation of the state regime is more reflective of conservative populism than the urban regime of Portland. This is in part a consequence of the state's extensive use of the initiative process, which has, on a number of occasions, served to constrain the otherwise progressive efforts of the state regime.

[10] Clucas and Henkel (2005) suggest that the primary divide politically within the state is between progressives and conservative populists.

The relationship between the urban regime and the federal level regime offers more tension. Prior to the election of Barack Obama in 2008, the federal regime had largely reflected conservative values since the election of Ronald Reagan. This is especially true in the area of greatest interest to this study- the judiciary. As Pickerill and Clayton (2004) demonstrate, the federal judiciary came to reflect the preferences of the conservative national regime and that remains largely stable, given the slow process of change in the judiciary. The formal and informal selection methods for federal judges are identified above. The central point is that the selected judges are going to reflect some combination of national interests and local flavor, with national interests becoming more and more dominant in the higher level courts.

State court judges are all elected to six year terms in nonpartisan races in Oregon. Though that is the formal selection method, the actual practice of selecting judges rests much more heavily on the governor. Vacancies on the bench are filled by gubernatorial appointment and this process accounted for fully eighty-five percent of judicial positions from 1984 to 2004 (Foster 2005, 183). It is safe to say that the state regime, as reflected by the governor, exerts substantial influence on the makeup of the judiciary in Oregon. Specifically, the Democratic dominance of the governor's office since the mid-1980s means that the appointed judges are likely to be more in line with the progressive state regime rather than the oppositional conservative populist approach (Foster 2005, 184). Finally, the structure of appellate review is statewide, with one court of appeals covering a statewide jurisdiction along with a supreme court to serve as the court of last resort. The appellate court has one of the heaviest caseloads per judge of any appellate court in the country, which can result in delays and many unpublished opinions.

With this background, it is now possible to look at the influence of courts on the implementation of growth management strategies by the regime such as the urban growth boundary. At the time of Leo's (1998) study of Portland's growth management approach, the state courts were written out of the process of direct review. Indeed, state legislation in 1979 created the Land Use Board of Appeals and stripped jurisdiction from the courts to consider any land use decisions (Leo 1998, 368–369). Developments in the federal judiciary were starting to change this by the mid-1990s, though. The U.S. Supreme Court's Takings Clause decision in *Nollan v. California Coastal Commission* (1987) was a victory for the burgeoning property rights movement particularly focused in western states that found a receptive audience in a Supreme Court increasingly dominated by Republican appointees. The case signaled willingness by the Court to be more protective of property owners and impose some substantive restrictions on government regulation. This emboldened property rights interest groups such as Oregonians in Action to be more aggressive in challenging the dominant growth management regime through the judiciary. This proved successful in the Portland suburb of Tigard when the Court struck down the permit conditions imposed on a business seeking to expand (*Dolan v. City of Tigard* 1994). These decisions created barriers, though not insurmountable ones, to the enforcement of a growth management regime largely favored by downtown businesses and environmentalists (Leo 1998). Success in the federal courts, which were dominated by a regime more receptive to property rights claims, did not extend to state courts where groups such as 1000 Friends of Oregon continued to find success in enforcing environmental standards even where land use decisions were off the table. The politics of the state were starting to shift, however, especially through the initiative process.

The first apparent victory for this property rights coalition was in 2000, when the voters of Oregon approved Ballot Measure 7. This measure would have required the state or local government to compensate property owners whenever a government regulation devalued their property. This would have been a substantial blow to the growth management regime of Portland in particular, but was struck down by the Oregon Supreme Court for amending multiple parts of the state constitution (*League of Oregon Cities v. State* 2002). Given the gubernatorial control over judicial appointments and consistent control of that office by politicians largely aligned with the Portland regime, this serves as an example of state-level courts and a state regime serving to protect an urban regime's ability to pursue its goals.

The conservative populist movement within the state was not finished, however. In 2004, the state passed another initiative, Ballot Measure 37, that once again required the government to offer compensation for land use regulation that restricts use of the property and reduces its fair market value. Alternatively, the government could remove, modify or not apply the regulation to avoid the requirement to pay. This was struck down by a Marion County Circuit Court much like Measure 7, but in this instance, the Oregon Supreme Court overruled the lower court and upheld the initiative (*MacPherson v. Department of Administrative Services* 2006). The rising success of the conservative populist movement within the state signaled not only by the repeated success of these measures, but also by gaining partial control of the state legislature, made it too politically costly for the Oregon Supreme Court to continue to resist. That did not mean that the urban regime of Portland was done resisting. With state courts enforcing the statewide consensus restricting property regulation and federal courts enforcing the federal regime preference to strengthen the protections of the Takings Clause, the constraints were real for the city and region. The response was to have the state legislature place Ballot Measure 49 on the

ballot in 2007. This measure used much of the language of Measure 37, but in practice overturned many of the restrictions on regulating commercial property development. For others, instead of cash payments for compensation, property owners could be compensated by the ability to build up to three homes on their affected property. This was consistent with the goals that Leo described for the growth management regime of Portland- the intention was to "manage growth in order to promote it" (Leo 1998, 370).

Both of these measures, however, brought the state courts back into the picture, by offering the courts as a mechanism for enforcement of the losses experienced by property owners. The state courts reflected and enforced the state-wide norms even where the city would have preferred greater independence. Indeed, decisions about land use in Portland are made very much in the "shadow of the law." One prominent example of this was the recent resolution of Area 93. On January 1, 2014, the borders between Multnomah County and Washington County in Oregon were redrawn. A 160 acre parcel of land designated as Area 93 was transferred from Multnomah County to Washington County. This was the first adjustment of this size to the borders of Multnomah County since it was created in 1854 (Mistreanu 2014). Area 93 was included within the Portland metro region's Urban Growth Boundary in 2002, slated for residential and commercial development. Problems quickly arose, however. The area was just outside the boundaries of the city of Portland and Multnomah County does not provide any basic services such as water, electricity, or sewer. The city of Portland refused to annex the area because it would have been non-contiguous with the rest of the city. There was protected farmland in between the city boundary and Area 93 that was not within the urban growth boundary.

The simple solution at this point would have been to drop Area 93 from the urban growth boundary and return it to its previously undeveloped state. Measures 37 and 49 made this costly to do, however, because property owners purchased land in anticipation of development and threatened lawsuits seeking compensation. After stalling for over ten years, the unusual resolution of redrawing county borders was seen as the only viable solution. It was not what the local regime wanted, but it was necessary because state courts allowed for the enforcement of state-level preferences regarding property regulation. This dynamic- state courts imposing constraints from state-level regimes on urban regimes- is quite common and offers insight into the policy choices that are available to the formal and informal actors that make up an urban regime. This is not the only dynamic, though. Looking at Chicago in the Daley era offers an alternative dynamic that can develop.

Chicago, Illinois

The Daley machine of the late 1960s in Chicago was quite powerful, but was it subject to the same restrictions and constraints imposed by the state as Portland is today? A careful look at the characteristics of the regime and the judiciary will show that it was not. The Daley regime fit the description of a classic political machine. Control was centralized and payoffs were made to relevant interests to maintain political power. The city was certainly interested in growth, undergoing a massive urban renewal project under Daley's leadership (Rast 2009, 173). To evaluate the relationship between the courts and the urban regime, it is necessary to once again identify the criteria from Table 1.

One criterion would suggest that the city should not have had much independence. Home rule did not come to Illinois until 1970 despite repeated efforts by Chicago throughout the

twentieth century. Being granted this status may have helped the Daley machine towards the end of its life, but not through the bulk of its time. Nonetheless, the city was able to act with a fair degree of independence. One cause for this was the tight control over state delegates from Chicago that Daley held. Daley not only controlled who represented Chicago, but he chaired the state central committee for the Democratic party, which ensured influence over Democratic representatives from other parts of the state as well (Weir, Wolman, and Swanstrom 2005, 738). This did not mean that all relations were smooth between the urban regime and the state regime. Republicans and even downstate Democrats chafed at Daley's control and were eager to limit his authority in Chicago and the state more generally. The relationship was an uncertain one, protected largely by the sizeable number of delegates from Chicago. The urban regime had a more comfortable relationship with the federal regime, acquiring more federal dollars for urban renewal than any other city in the country (Rast 2009, 174). The one area of disagreement was over civil rights. As the dominant regime of Democrats at the national level moved in favor of civil rights for African-Americans, Daley remained a hold-out. This was visible in segregated housing policies within the city that Daley continued to protect.

Judges in Cook County, unlike those in the Portland region, were elected through partisan elections, although there were some slight modifications implemented during Daley's reign. Once on the bench, the judges stood for an uncontested retention election after serving a six year term. Vacancies were filled temporarily by the state supreme court rather than by the governor. Apellate court judges were selected the same way, but served for nine year terms until 1964, when the terms were changed to ten years. The informal selection procedures demonstrate the ways in which Daley was able to dominate the selection of judges for the state trial courts. To be elected as a judge, a nominee had to be slated by the central committee. Since Daley sat as chair

of the central committee, he effectively controlled who could be judge. Not surprisingly, the result was that most of the judges came up through the machine- indeed, many were former ward bosses (Royko 1971, 64; Tuohy and Warden 1989, 45–46). Appellate courts within the state are divided into five geographic districts. Importantly for consideration of the politics of Chicago, the First Judicial District of the Appellate Court covers only Cook County. This meant that Daley could exercise influence not only over the trial courts, but also over the initial stages of the appellate system.

The formal selection method for federal judges of presidential appointment and Senate confirmation remained unchanged. The informal selection method for the federal courts at the time reflected the continuous domination of the New Deal coalition and its eventual fracturing during the 1960s. Federal judges generally reflected the ideology of their appointing Democratic presidents, which, as noted above, were largely aligned with the interests of the urban regime except on questions of civil rights.

In what ways did this relationship with the judiciary impact the regime's ability to govern? By retaining control of the state judiciary, Daley was able to resist efforts of both downstate political rivals and external national civil rights groups to force change within the city. Two incidents are indicative of this dynamic. The first was the aftermath of the 1960 election in Illinois. It triggered extensive interest because of its implications for the Kennedy-Nixon presidential election, but it was the result of the state's attorney race in Cook County that showed the greatest electoral oddities. Mayor Daley permitted a special prosecutor to be appointed to investigate claims of election fraud, but he did not leave the process alone. Although the special prosecutor specifically sought a judge from outside of Chicago because of concerns about corruption, the downstate judge that was selected was also a part of the state's Democratic

machine and most of the charges were eventually dropped (Royko 1971, 119–120). Daley was able to leverage his influence in the judiciary to fend off external challenges.

This influence was valuable for protecting individual members of the regime as well. After the killing of two Black Panthers by fourteen Chicago police officers, a special state grand jury investigated Mayor Daley's handpicked state's attorney Edward Hanrahan for his role in ordering the raid that resulted in the deaths. At the conclusion of the investigation, the grand jury returned an indictment against Hanrahan and thirteen of the police officers. Judge Joseph Power, a neighbor and former law partner of the mayor, in an almost unheard of action, refused to sign the formal presentment. He accused the head of the grand jury investigation, Barnabas Sears, of inadequately carrying out his responsibilities and ordered the grand jury to hear testimony directly from Hanrahan. After hearing twenty hours of testimony from Hanrahan, the grand jury again attempted to present an indictment. Judge Power appointed a special friend of the court to determine whether Sears had inappropriately influenced the grand jury. After three months of appeals to the Illinois Supreme Court, the high court finally ordered Judge Power to deliver the indictments. Power agreed, but in his last act as arraigning judge assigned the case to Judge Philip Romiti, another judge with close personal ties to the Daley machine. Over a year later, Judge Romiti acquitted Hanrahan of all wrong doing in the case (Biles 1995, 179–180). This set of events highlights the ways in which the urban regime of Chicago was able to rely on control of the judiciary to resist state influence rather than having courts act as a mechanism for enforcing state-level constraints. Of particular importance to understanding this dynamic is the selection method for the judges and the relationship between urban and state regimes. As these case studies demonstrate, courts may be used to reflect (Portland) or resist (Chicago) external constraints on the operation of urban regimes.

Conclusion

This paper set out to highlight the ways in which treating courts as endogenous institutions rather than exogenous shocks to the political system offers a richer and more nuanced way of understanding how and why urban regimes are able to act. Doing so does have its drawbacks. It is more appropriate for better understanding specific situations in cities than grand theory building. It also requires careful attention to specific contexts and the gathering of data not typically collected about cities. In addition, there is much about court activity at the local level that is largely invisible to outside study. Incorporating courts into the study of local politics is unlikely to generate a perfect understanding of the dynamics at play. However, by drawing on the long-standing insight of law and courts scholars that courts are political institutions, scholars of urban politics can improve their own understanding of how urban regimes operate and pursue their goals.

References

Biles, Roger. 1995. *Richard J. Daley: Politics, Race, and the Governing of Chicago*. DeKalb: Northern Illinois University Press.

Blumenthal, Pamela M. 2014. "Local Land Use Regulatory Regimes and Residential Development Outcomes: An Analysis of Subdivision Review in Four Counties in the DC Region." The George Washington University. http://gradworks.umi.com/35/98/3598490.html (March 5, 2014).

Carter, Lief, and Thomas Burke. 2010. *Reason in Law*. 8th Edition. New York: Pearson.

Clayton, Cornell, and David A. May. 1999. "A Political Regimes Approach to the Analysis of Legal Decisions." *Polity* 32(2): 233–52.

Clucas, Richard A., and Mark Henkels. 2005. "A State Divided." In *Oregon Politics and Government: Progressives and Conservative Populists*, eds. Richard A. Clucas, Mark Henkels, and Brent S. Steel. Lincoln, NE: University of Nebraska Press.

Cowles v. Mercer. 1869. 74 U.S. 118.

Dahl, Robert A. 1961. *Who Governs? Democracy and Power in an American City*. New Haven: Yale University Press.

Diller, Paul A. 2008. "The Partly Fulfilled Promise of Home Rule in Oregon." *Oregon Law Review* 87(3): 939–78.

Dolan v. City of Tigard. 1994. 512 U.S. 374.

Dowding, Keith. 2001. "Explaining Urban Regimes." *International Journal of Urban and Regional Research* 25(1): 7–19.

Ellickson, Robert C. 2005. "Response to 'The Effects of Land Use Regulation on the Price of Housing: What Do We Know? What Can We Learn?' By John M. Quigley and Larry A. Rosenthal." *Cityscape* 8(1): 261–64.

Fainstein, Norman I., and Susan S. Fainstein. 1983. *Restructuring the City: The Political Economy of Urban Redevelopment*. New York: Longman.

Foster, James C. 2005. "Judiciary." In *Oregon Politics and Government: Progressives and Conservative Populists*, eds. Richard A. Clucas, Mark Henkels, and Brent S. Steel. Lincoln, NE: University of Nebraska Press.

Frymer, Paul. 2008. *Black and Blue: African Americans, the Labor Movement, and the Decline of the Democratic Party*. Princeton, N.J: Princeton University Press.

Graber, Mark A. 1993. "The Nonmajoritarian Difficulty: Legislative Deference to the Judiciary." *Studies in American Political Development* 7(01): 35–73.

Gurr, Ted Robert, and Desmond S King. 1987. *The State and the City*. Chicago: University of Chicago Press.

Hochschild, Jennifer. 2008. "Clarence N. Stone and the Study of Urban Politics." In *Power in the City: Clarence Stone and the Politics of Inequality*, eds. Marion Orr and Valerie Johnson. Lawrence, KS: University Press of Kansas, 317–34.

Imbroscio, David L. 2003. "Overcoming the Neglect of Economics in Urban Regime Theory." *Journal of Urban Affairs* 25(3): 271–84.

Jonas, Andrew E.G., and David Wilson, eds. 1999. *The Urban Growth Machine: Critical Perspectives, Two Decades Later*. Albany, NY: State University of New York Press.

Lauria, Mickey, ed. 1997. *Reconstructing Urban Regime Theory: Regulating Urban Politics in a Global Economy*. Thousand Oaks, Ca.: Sage.

League of Oregon Cities v. State. 2002. 334 Or. 645.

Leo, Christopher. 1998. "Regional Growth Management Regime: The Case of Portland, Oregon." *Journal of Urban Affairs* 20(4): 363–94.

Lincoln County v. Luning. 1890. 133 U.S. 529.

Logan, John R., and Harvey L. Molotch. 1987. *Urban Fortunes: The Political Economy of Place*. University of California Press.

Lowndes, Vivien. 2001. "Rescuing Aunt Sally: Taking Institutional Theory Seriously in Urban Politics." *Urban Studies* 38(11): 1953–71.

MacPherson v. Department of Administrative Services. 2006. 340 Or. 117.

McCann, Michael. 1994. *Rights at Work: Pay Equity Reform and the Politics of Legal Mobilization*. Chicago, IL: University of Chicago Press.

Meck, Stuart. 2014. "New Jersey's Mount Laurel Doctrine and Its Implementation: Under Attack, But Safe (for Now)." *Planning & Environmental Law* 66(1): 4–12.

Mistreanu, Simina. 2014. "Washington, Multnomah Counties Boundary Changed after Bonny Slope West Transfer Finalized." *The Oregonian - OregonLive.com*. http://www.oregonlive.com/washingtoncounty/index.ssf/2014/01/washington_multnomah_counties.html (March 23, 2014).

Mnookin, Robert H., and Lewis Kornhauser. 1979. "Bargaining in the Shadow of the Law: The Case of Divorce." *The Yale Law Journal* 88(5): 950–97.

Molotch, Harvey. 1976. "The City as a Growth Machine: Toward a Political Economy of Place." *American Journal of Sociology* 82(2).

———. 1999. “Growth Machine Links: Up, Down, and Across.” In *The Urban Growth Machine: Critical Perspectives, Two Decades Later*, eds. Andrew E. G. Jonas and David Wilson. Albany, NY: State University of New York Press.

Nollan v. California Coastal Commission. 1987. 483 U.S. 825.

Penn Central Transportation Co. v. New York City. 1978. 438 U.S. 104.

Peterson, Paul E. 1981. *City Limits*. Chicago: University of Chicago Press.

Phelps, Nicholas A. 2012. “The Growth Machine Stops? Urban Politics and the Making and Remaking of an Edge City.” *Urban Affairs Review* 48(5): 670–700.

Pickerill, J. Mitchell, and Cornell W. Clayton. 2004. “The Rehnquist Court and the Political Dynamics of Federalism.” *Perspectives on Politics* 2(2): 233–48.

Pierre, Jon. 1999. “Models of Urban Governance: The Institutional Dimension of Urban Politics.” *Urban Affairs Review* 34(3): 372–96.

Rast, Joel. 2006. “Governing the Regimeless City: The Frank Zeidler Administration in Milwaukee, 1948–1960.” *Urban Affairs Review* 42(1): 81–112.

———. 2009. “Regime Building, Institution Building: Urban Renewal Policy in Chicago, 1946–1962.” *Journal of Urban Affairs* 31(2): 173–94.

Riggs v. Johnson County. 1868. 73 U.S. 166.

Royko, Mike. 1971. *Boss: Richard J. Daley of Chicago.* New York: Dutton.

Schleicher, David. 2013. “Local Government Law’s ‘Law and ____’ Problem.” *Fordham Urban Law Journal* 40(5): 101–23.

Schneider, Mark, and Paul Teske. 1993. “The Antigrowth Entrepreneur: Challenging the ‘Equilibrium’ of the Growth Machine.” *The Journal of Politics* 55(3): 720–36.

De Socio, Mark. 2007. “Business Community Structures and Urban Regimes: A Comparative Analysis.” *Journal of Urban Affairs* 29(4): 339–66.

Stone, Clarence N. 1989. *Regime Politics: Governing Atlanta, 1946-1988*. Lawrence, KS: University Press of Kansas.

Stone, Clarence N. 1993. “Urban Regimes and the Capacity to Govern: A Political Economy Approach.” *Journal of Urban Affairs* 15(1): 1–28.

———. 2004. “It’s More than the Economy after All: Continuing the Debate about Urban Regimes.” *Journal of Urban Affairs* 26(1): 1–19.

———. 2005. “Looking Back to Look Forward: Reflections on Urban Regime Analysis.” *Urban Affairs Review* 40(3): 309–41.

Tuohy, James, and Rob Warden. 1989. *Greylord: Justice, Chicago Style*. New York: Putnam.

Ward, Kevin et al. 2011. "Urban Politics: An Interdisciplinary Dialogue." *International Journal of Urban and Regional Research* 35(4): 853–71.

Weir, Margaret, Harold Wolman, and Todd Swanstrom. 2005. "The Calculus of Coalitions: Cities, Suburbs, and the Metropolitan Agenda." *Urban Affairs Review* 40(6): 730–60.

Whittington, Keith E. 2005. "'Interpose Your Friendly Hand': Political Supports for the Exercise of Judicial Review by the United States Supreme Court." *American Political Science Review* 99(4): 583–96.