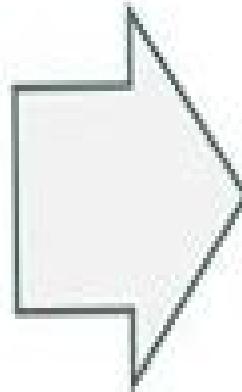


Stare Decisis Concept

Sets a precedent for

Previous court
decision or ruling in
a legal matter



Future cases with
similar
circumstances or
facts



Stare Decisis

Paul Finkelman

Stare Decisis:

Judges and Unjust Laws Douglas E. Edlin, 2008-12-02 With keen insight into the common law mind Edlin argues that there are rich resources within the law for judges to ground their opposition to morally outrageous laws and a legal obligation on them to overturn it consequent on the general common law obligation to develop the law. Thus seriously unjust laws pose for common law judges a dilemma within the law not just a moral challenge to the law a conflict of obligations not just a crisis of conscience. While rooted firmly in the history of common law jurisprudence Edlin offers an entirely fresh perspective on an age old jurisprudential conundrum. Edlin's case for his thesis is compelling. Gerald J Postema Cary C Boshamer Professor of Philosophy and Professor of Law University of North Carolina at Chapel Hill and author of *Bentham and the Common Law Tradition* Douglas Edlin builds a powerful historical conceptual and moral case for the proposition that judges on common law grounds should refuse to enforce unjust legislation. This is sure to be controversial in an age in which critics already excoriate judges for excessive activism when conducting constitutional judicial review. Edlin's challenge to conventional views is bold and compelling. Brian Z Tamanaha Chief Judge Benjamin N Cardozo Professor of Law St John's University and author of *Law as a Means to an End Threat to the Rule of Law* Professor Edlin's fascinating and well-researched distinction between constitutional review and common law review should influence substantially both scholarship on the history of judicial power in the United States and contemporary jurisprudential debates on the appropriate use of that power. Mark Graber Professor of Law and Government University of Maryland and author of *Dred Scott and the Problem of Constitutional Evil* Is a judge legally obligated to enforce an unjust law? In *Judges and Unjust Laws* Douglas E. Edlin uses case law analysis legal theory constitutional history and political philosophy to examine the power of judicial review in the common law tradition. He finds that common law tradition gives judges a dual mandate to apply the law and to develop it. There is no conflict between their official duty and their moral responsibility. Consequently judges have the authority perhaps even the obligation to refuse to enforce laws that they determine unjust. As Edlin demonstrates exploring the problems posed by unjust laws helps to illuminate the institutional role and responsibilities of common law judges. Douglas E. Edlin is Associate Professor of Political Science at Dickinson College.

The Encyclopedia of American Civil Liberties Paul Finkelman, 2006 Publisher Description [International and Foreign Legal Research](#) Marci Hoffman, Mary Rumsey, 2008 International and Foreign Legal Research A Coursebook emphasizes legal research strategies applicable across the landscape of research sources. Topics covered in the book range from a general chapter on basic concepts to five chapters on particular subjects of international law. Each major aspect of research such as using periodical indexes is treated once in depth. Elsewhere in the book other sections refer readers to that in depth treatment while adding information specific to the topic being discussed. A companion website is also made available to help users of the book stay up to date on new sources and strategies. [European Yearbook of International Economic Law 2011](#) Christoph Herrmann, Jörg Philipp

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A New Look at Plurality Decisions

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