RESEARCH IN PROGRESS:

JUDICIAL ROLE ORIENTATIONS

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Given that judicial role orientations have been shown to be related to judicial decision-making behavior, it is important that we continue to develop and refine empirically-based typologies of the judicial role. This is a Q-technique study of role orientations of active judges in the Florida state appellate judiciary. The Q sample employed is borrowed from Ungs and Baas (1972), who developed the instrument for their study of the role perceptions of Ohio state judges.

Interviews were conducted with the Q sorts obtained from 39 of the 43 active judges on Florida's District Courts of Appeal, the intermediate level of the state judiciary. According to a recent revision of the state constitution, this level of the judiciary is invested with final jurisdiction on many matters of law. Hence, the District Courts are important in shaping legal policy in the state of Florida.

Analysis of the Q-sort data has revealed the distribution of role orientations among Florida appellate judges to be markedly different from that found by Ungs and Baas in Ohio. Some of the differences are clearly attributable to methodological differences between the Ohio and Florida studies; others may have an objective basis. The most striking difference between the Ohio and Florida results is the discovery of a clear "law maker" or "policy maker" role type among Florida judges whereas none was found in the Ohio study. Often characterized as possessing a "broad" (as opposed to a "narrow") view of the judicial role, the "law maker" demonstrates an aware-

ness of the policymaking role of the courts and a willingness to embrace this role enthusiastically.

Using discriminant analysis, differences in role orientations among Florida appellate judges are explained in terms of several background variables: prior occupation, age, law school attended and length of service on the appellate court. While prior occupation is of little explanatory utility, the other discriminating variables are moderately good predictors of the judicial role orientation. These findings suggest that socialization is the key to understanding role differentiation but that, contrary to conventional wisdom, socialization is an ongoing process with on-the-bench experience important in shaping a judge's conception of his role.

Selected Bibliography

Baas, L.R. Role perceptions of common pleas and court of appeals judges in Ohio. Master's thesis, Kent State University, 1969.

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JUDICIAL ROLE ORIENTATIONS Q SAMPLE ($n = 48$) (from Baas, 1972)

(1) Judging is administration. (2) If there were no rules, we would be governed by men not laws. Order is not only heaven's first law, but is the essence and end of all jurisprudence. (3) The chief function of our judicial machinery is to ascertain the truth. (4) Judges always made law and always will. In interpretation you're trying to give an-

Q SAMPLE STRUCTURE

Main Effects	Levels
Roles	(a) law interpreter (b) law maker (c) adjudicator (d) administrator
Areas	(e) characterize job (f) decisional criteria (g) goals

Combinations:

(ae)	17	21	33	35	(ce)	11	16	29	30
(af)	8	9	26	27	(cf)	28	34	38	40
(ag)	2	18	42	46	(cg)	3	7	14	19
(be)	4	10	12	23	(de)	1	22	39	48
(bf)	6	15	32	36	(df)	5	13	24	41
(bg)	20	25	44	45	(dg)	31	37	43	47

swers to problems that were not considered by the legislature, and you try to guess what the legislature would have done. (5) Stare decisis is usually the wise policy, because it is more important that the applicable rule be settled than it be settled right. (6) I take judge-made law as one of the existing realities of life. (7) The fundamental purpose is to bring order and fair play into society; to define and assure each his rights; to invest business with a measure of decency; to interpose barriers against deceit, and at the same time guard against arbitrary conduct on the part of government officials. (8) The judge that writes his own predilections into the law in disregard for constitutional principles or the legislative edicts that he interprets is not worthy of the great traditions of the bench. (9) Stare decisis is at least the everyday working rule of the law. (10) Judges, when construing statutes, necessarily engage in a species of lawmaking. The legislature often does no more than provide a general standard.

(11) The function of the judge is primarily adjudication. This is not a mechanical craft, but the

exercise of a creative art, whether we call it legislative or not, which requires great ability and objectivity. (12) Courts as an institution are too deeply imbedded in our society to take a back seat. (13) The Anglo-American judge requires distinctive skill to work competently with the complex nature of the law. These skills may be said to be far more important than legal scholarship. (14) When the social needs demand one settlement rather than another, there are times when we must bend symmetry, ignore history, and sacrifice custom in the pursuit of other and larger ends. (15) Judges should base their decisions on broad considerations of policy which the traditions of the bench would hardly have tolerated 50 years ago. (16) Judges are not monks or scientists but participants in the living stream of our life, steering the law between the dangers of rigidity on the one hand and of formlessness on the other. (17) Judicial power, as contradistinguished from the power of the law, has no existence. Courts are the mere instruments of the law and can will nothing. (18) Laws are designed to establish justice. Thus the protection of these laws should be the aim of the judicial task. (19) The final cause of the law is the welfare of society. (20) The law is not an end in itself nor does it provide ends. It is preeminently a means to serve what we think is right.

(21) Courts are not the only agency of government that must be assumed to have the capacity to govern. For the removal of unwise laws appeal lies not to the courts but to the ballot and the processes of democratic government. (22) Courts governed by the rule of law may not achieve spectacular results in particular cases, but they satisfy more effectively the need of modern society for peace in the relations between the individuals composing it and between them and the state. (23) Inevitably a judge makes law as does a legislative body; no matter how you decide a case you're making law. (24) Adherence to precedent must be the rule rather than the exception if litigants are to have faith in the even-handed administration of justice. (25) The crucial question is not whether the court has kept up with its calendar but

whether it has kept up with justice. (26) The judicial judgment must move within the limits of accepted notions of justice and is not to be based upon the idiosyncracies of a merely personal judgment. (27) Our judgment cannot be rested on the hypotheses of tomorrow but must take the facts as they are presented today. (28) It is important that judges keep in contact with the changing background out of which controversies arise. (29) The ultimate function of the judge is nothing less than the arbitration between fundamental and ever present rival forces or trends in our organized society. (30) The inescapable judicial task is to balance contending principles. This task requires judgment.

(31) The judge should exercise discretion, informed by tradition, disciplined by system, methodized by analogy, and subordinated to the primal necessity for order in the social life. (32) The law is what we say the law is to be. (33) Courts are tribunals of limited jurisdiction, narrow processes, and have small capacity for handling mass litigation; they have no force to coerce obedience, and are constantly subject to being outstripped of jurisdiction. (34) Our task is great. Its performance brings into play those qualities of knowledge, social idealism, courage and integrity which have always been considered the attributes of a good judge. (35) We interpret the law. That's our function. We're not authorized to write law. We can act in only one way. That is to be solely interpreters of the law. (36) Judges, like other leaders of thought, must be free to choose and, being free, one must have the daring to let their conscience cast the vote. (37) It is for us to meet the administration of justice in a spirit ripened by the experience of the past--with eyes fastened firmly on the future, and the aim to achieve a better ordered life. (38) In every case where legislative abridgment of the rights is asserted, the courts should be astute to examine the effect of the challenged legislation, weigh the circumstances and appraise the substantiality of the reasons advanced. (39) It is our responsibility, new judges and old, to clean up the accumulations of pending cases and

to maintain current dockets in every court so that equal justice for all will be insured by prompt justice to all.

(40) Not only should a judge be an expert in statutory construction and profoundly versed in the tenets of the common law and equity jurisprudence, but he should be endowed with fervor for substantial justice and possessed of a warm heart controlled by a cool brain. (41) Judges administer justice judicially, not according to some abstract right and justice, but according to the rules laid down by society in its code of laws to which it gives its sanctions. (42) State courts are courts of law and not of justice. They are the symbol of the constitutionality of the people they serve. (43) Justice can be achieved by judges who consider a lawsuit not a game, the object of which is the award of a prize to the more skillful contestants, but as society's method of achieving peace and justice under the law. (44) It is the spirit and not the form of law that keeps justice alive. (45) The judicial function is to pursue justice in every case. (46) No interpretation of the law which fails to take due account of the separation of powers can be considered constitutionally sound. (47) While justice is a natural virtue, it is also a social virtue. In the administration of justice, therefore, lawyers and judges must believe in, subscribe to, understand and sustain the institutions of government and must oppose any person or ideal inconsistent with those principles. (48) Judges must be left unshackled with more authority to rectify administrative short-comings, not less, if they are to achieve a maximum standard of administrative efficiency.

Editor's Note. Mr. Scheb kindly provided his factor arrays, which permitted a direct comparison with those located in Baas's (1972) report, resulting in the correlation matrix and factor matrix shown in the table below. Baas reported the existence of five factors (see Ungs & Baas, 1972):

1. Law interpreter-traditionalist

FACTOR COMPARISONS

Correlation Matrix

	Baas					Scheb			2d Order Factors			
	1	2	3	4	5	6	7	8	A	B	C	D
1	--	50	31	38	29	63	55	25	68	29	26	00
2		--	32	29	27	41	64	52	26	76	16	03
3			--	43	24	47	28	07	14	21	63	06
4				--	16	38	21	10	19	18	58	-06
5					--	17	30	08	21	23	18	42
6						--	31	32	53	27	45	-16
7							--	39	38	66	04	14
8								--	11	66	-08	-15

Decimals omitted. Loadings and correlations exceeding ±0.38 are significant ($p < 0.01$).

2. Adjudicator
3. Administrator
4. Trial judge
5. Peacekeeper

Scheb reports three:

6. Law interpreter
7. Law maker
8. Adjudicator

Judgmental rotation sought to distinguish Baas's original five factors, the consequence being that Scheb's factors are generally shown to be replications of Baas's, either purely so (e.g., 2 and 8) or in combination (e.g., 7 being a mixture of 1 and 2). The emergence of "a clear 'law maker'...among Florida judges" (Scheb, *supra*) and not among Ohio judges may therefore be more a function of rotational procedure than the existence or absence of phenomena. Which of the two rotational outcomes carries the most theoretical interest, of course, remains an open issue.

The positive and, in many instances, significant correlations among the various role orientations within the two studies indicate that some role types are

variations on a common theme, and that there exists a good deal of consensus within as well as between states.

NEWS, NOTES & COMMENT

Forthcoming

Bruce F. McKeown (Social & Behavioral Sciences, Seattle Pacific U, Seattle, WA 98119), "Q Methodology in Political Psychology: Theory and Technique in Psychoanalytic Applications," to be read on a panel on research methods in political psychology, American Political Science Association meeting, Denver, CO, September 2-5, 1982. *Abstract* (tentative): Although early studies of political psychology (notably the work of Harold Lasswell) were patterned after the intensive mode and psychoanalytic model, it is evident that, with few exceptions, the psychology of politics has become dominated by the central themes and methodologies of sociology and social psychology. The consequence is that the initial emphasis upon subjectivity has been set aside. Sociological and social psychological theories and methods are appropriate in many instances; however, political psychologists must be cautious when these methods are used to draw inferences about the internal framework of the political actor. The paper presents a plea for and a justification of a return to political subjectivity (and the psychoanalytic paradigm) as the proper domain of political psychology and provides a defense of Q methodology (through illustrative case studies) as especially suited for the objective study of political subjectivity.

David E. Aronson (Mental Health Center of Eastern Stark County, 245 E. Main St., P.O. Box 1903, Alliance, OH 44601), Horace A. Page & Mercedes Galante, "Measuring Psychotherapists' Orientations," Eastern Psychological Association, Baltimore, April 14-17, 1982. *Abstract*: To measure and differentiate psychotherapists' orientations, 30 expert therapists of various persuasions described their style using a 64-