

**Donald Songer, Susan Johnson, C. L. Ostberg and Matthew Wetstein**

*Law, Ideology, and Collegiality. Judicial Behaviour in the Supreme Court of Canada.* Montreal and Kingston: McGill-Queen's University Press, 2012. 223 pp.

In this nine-chapter book, four US-based political scientists report findings from their study of the Canadian Supreme Court. Specifically, they assess the impacts of political ideology on the decision-making practices of judges. The authors ask: How do personal political values and attitudes shape how judges formulate decisions? Using mixed methods such as statistical analysis and interviews, the authors convincingly show that judges' "personal ideologies affect their approach to policy issues and help explain divisions between them" (p. 4).

*Law, Ideology, and Collegiality* begins with a historical overview of the Supreme Court of Canada. Throughout the book, the *Charter of Human Rights and Freedoms* (1982) is used as a marker to illustrate the point in time when the Court became a central policy-making body. In chapter three, the authors discuss the various statistical models social scientists have used to explore judges' decision-making practices. The book's early chapters set the stage for an assessment of whether and how the Supreme Court of Canada justices have adopted an attitudinal model in the post-*Charter* era. Chapter four guides the reader through the phases of a judge's work: from the decision to hear a case, to the conference stage, and finally, to the opinion-writing stage.

In chapters five through seven, the authors discuss results of their quantitative modeling, which provides the book's analytic centerpiece. They examine attitudinal decision making by looking at judges' voting patterns, newspaper reporting about their decisions, political party of appointment, and various demographic characteristics (excluding class). In chapter eight, unanimous Supreme Court of Canada decisions are quantitatively explored, and the authors make the point that results "fit with the way the justices themselves talk about their work" (p.14). The authors acknowledge that factors beyond personal proclivities mediate the decision-making practices of Supreme Court justices; additional factors include legal constraints, panel size, and presence (or absence) of interveners.

The authors of *Law, Ideology, and Collegiality* suggest that the blending of qualitative and quantitative analysis constitutes a significant methodological contribution. In my view, the authors have underutilized the qualitative data gathered through personal interviews with Supreme Court judges. While chapter four is framed as an opportunity to learn about judicial decision making "through the eyes of the justices" (p. 11), the chapter omits the judges' own descriptions of their daily practices.

This book is conceptually organized around ideology, which, in this usage, refers to a person's "political values and attitudes" (p. 6). Because of its organizing presence in *Law, Ideology, and Collegiality*, greater engagement with ideology as a construct would have been helpful. This could have involved fleshing out the concept of ideology within various socio-historical and theoretical understandings. This would have helped the reader to unpack the idea and to consider the ideological organization of judges' decision making.

The authors' central achievement lies in how they have made a highly influential, opaque, complex, and essentially off-limits public institution visible. Their findings could inform empirical research on the work of judges and other actors whose labour is tied to the institutional complex of the Canadian Supreme Court. A fuller understanding and recognition of the purpose of qualitative research strategies—and the promise that these hold for illuminating policy and decision-making practices—could be shaped by approaches within socio-legal studies. A research design unfettered by the imperative of evaluating and generating statistical models would open up opportunities for rich, contextualized explorations of the daily workings of an institutional site and players about which the Canadian public is at once unknowledgeable and curious.<sup>1</sup> This book offers a place to start in educating the public about, and in making explicit, the factors that shape Supreme Court judges' decision-making practices.

*Law, Ideology, and Collegiality* adds to a family of social science attitudinal literature. Political scientists, historians, academic lawyers, and the judges whose work informs this research will particularly benefit from this contribution. Canadian readers will learn that while consensus and collegiality influence how Canadian Supreme Court judges reach decisions, personal attitudes and ideology also inform judges' reasoning. By juxtaposing the work of Canadian and US Supreme Court judges, the authors make this book valuable for American readers as well.

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### Nathalie Le Bouëdec

*Gustav Radbruch: Juriste de gauche sous la République de Weimar*. Québec : Presses de l'Université Laval, 2011. 464 pp.

L'articulation entre théorie et politique est sans conteste un défi incontournable pour tout intellectuel engagé : le juriste qui intervient dans l'espace public n'y échappe pas. Dans l'ouvrage *Gustav Radbruch : Juriste de gauche sous la République de Weimar*, Nathalie Le Bouëdec, germaniste et maître de conférences à l'Université de Bourgogne, explore cette tension entre les sphères de la théorie et de la politique en prenant pour exemple le juriste allemand Gustav Radbruch (1878–1949). L'auteure nous invite à découvrir en ce dernier l'archétype du juriste engagé à gauche sous la

<sup>1</sup> At a November 2012 panel on the subject of HIV non-disclosure and criminal law in Canada held at McGill University's Faculty of Law, four panelists explored the contours and consequences of two recent Supreme Court decisions (*R v Mabior*, 2012 SCC 47 and *R v DC*, 2012 SCC 48). During the question-and-answer period, an attendee expressed surprise that Canadian justices' decisions in these appeals were unanimous. Interestingly, the historical record shows that justices' decisions are, by and large, unanimous.