

interpretation of them, are contestations of love. They are about the competing objects of love. As Saint Augustine cautioned his listeners long ago, love is a risky business. Love, but be careful what you love, for you become what you love. That is no less true in the personal domain than it is in the political domain. When the mainland government demands that Hong Kongers love China, their hope must be that, in loving China, Hong Kongers would become Chinese. In response, the young protestors in Hong Kong claim that they love Hong Kong, not China. In loving Hong Kong, but not China, they are Hong Kongers, but not Chinese. Only time will tell who will be able to claim their love in the end. That political drama is still being played out in Hong Kong, and the rest of the world is waiting to watch its ending.

A good book will show, not tell. Wan's book has shown persuasively how film can give us an entry point into the normative universe of constitutional discourse in Hong Kong, and through it, we can find both law and love within that universe. The book, like the normative universe that it seeks to describe, is so rich and multi-layered that I can easily imagine different readers taking away different themes from the book. The book has something in store for different sets of audience. It speaks to constitutional theorists, lawyers who are cinephiles and anyone with an interest in this most fascinating jurisdiction that is Hong Kong.

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How to Measure the Quality of Judicial Reasoning. Edited by MÁTYÁS BENCZE and GAR YEIN NG [Cham: Springer, 2018. viii + 268 pp. Hardback £119.99. ISBN 978-3-31997-315-9.]

How can we measure the quality of judicial reasoning? This question has been around for a long time and several researchers, judges and sociologists have tried to answer it in an attempt to define the process of measurement. Despite a large body of studies being available, there are many diverse opinions and it is unclear what impact these studies have on the ways judicial decisions are justified. The reason for the difference of opinion and the difficulty in setting clear indicators can be attributed to the complexities involved in identifying the process that leads to the measurement of the quality of judicial reasoning. The present book is the product of a conference at the University of Debrecen in Hungary, at which the authors reflected on the subject. It is divided into 15 chapters. Its organisation allows the reader to readily appreciate the subject's complexities.

In Chapter 1, Mátyás Bencze and Gar Yein Ng introduce us to some of the general complexities. After reading this chapter, the reader may assume that a judicial system whose quality can be measurable is at risk of losing the spirit and symbol of justice.

Delving into the issue of the quality of judicial reasoning also means understanding what is happening in the judge's head. While it is well known that there is no methodology capable of reflecting convincingly the real quality of a judge's work, in Chapter 2, Zenon Bankowski seeks to identify what is that we expect a judge to do and to be. The author answers this question in the context of the ethical life of the law and the judge. In so doing, he depicts the essence of any judicial decision-making within the framework of a virtue theory of adjudication.

Studies show that performance indicators, whether of a quantitative or qualitative nature, are unreliable. In Chapter 3, Zoltán Fleck tackles the issue of judicial evaluation from the social and institutional background of adjudication. Of special importance in this chapter is the proposition that “the contradictory nature of social expectations makes the results from consumer surveys on the level of trust in the justice system quite unreliable as quality indicators” (p. 43). For that reason, finding measurable indicators other than the results of customer surveys is essential when assessing judicial quality. To sum up, the author’s main contribution is to warn us about “the threat of abuse of quality control based on numbers” (p. 46). The author argues that measurable indicators should be expelled from the quality assessment of adjudication and suggests that there is a need for an evaluation mechanism that captures this complexity. Unfortunately, the author does not delve more deeply into the issue of a potential evaluation mechanism.

In Chapter 4, Mariusz Golecki states that the “judicial decision-making process is heavily influenced by heuristics and biases and special intuitive rules” (p. 58). The author makes a fresh attempt to address these problems of measurement through a “behavioral approach based on evolutionary and cognitive psychology” (p. 61). What is interesting here is that, for him, “emotions have a more influential effect on decisions than heuristics and biases” (p. 66). In his view, “the risk is that under such circumstances the written or oral justification of a judgment can easily become nothing more than a veil that conceals the true motives behind the decision” (p. 67). This analysis of judicial reasoning could be made more elaborate by analysing in more detail the impact of emotions on the decision-making process.

The notion of quality in the field of lay justice has rarely been examined. In Chapter 5, Attila Badó asserts that balance is required in a court in which lay justice is being exercised. The author reveals the relationship between lay participation and the quality of justice by collecting classic arguments that establish lay participation in dispensing justice and subjecting them to critical analysis. According to him, “the societal need can clearly be observed to be under the influence of rewarding or harrowing historical experiences regarding lay judges or the purported effect exerted on historical processes by lay judges” (p. 85). In order to substantiate this, the author uses the examples of the English and US jury systems. Overall, the author examines the uncertainties of judicial reasoning in the light of the importance of time and place, and changing function.

According to Mátyás Bencze in Chapter 6, it is possible to evaluate the quality of judicial reasoning (understood here as a written justification of a court judgment) by using methods that can produce exact indicators. In other words, the quality of justification is measurable. His hypothesis is that it makes sense to check the quality of the written justification separately from other components of the judgment. However, as the author concludes “one cannot find universal standards of correctness of justification” (p. 89). The challenge, then, is to find reliable quality indicators that respect judicial independence. In an analysis of this kind, it would have been interesting to provide greater detail on quality indicators.

Each legal system has its own particularities. Furthermore, there is no uniformisation in the benchmarks worked out for the assessment of the quality of judicial reasoning. That is why it is interesting to learn more about what is going on in different countries. In Chapter 7, Gar Yein Ng looks at the theoretical and practical foundations for the quality of judicial reasoning by using England and Wales as examples. The author focuses on the question of whether there are criticisms regarding the quality of judicial reasoning and their source, and whether quality management can help to alleviate these criticisms without being in breach of judicial independence (p. 103). In Chapter 8, Francesco Contini discusses the question of

judicial quality in Italy by considering the principles and values that should underpin the functioning of judicial institutions. The three fundamental principles considered by the author are the rule of law, the rule of economics and the legitimacy of justice institutions. In addition, he identifies some innovative practices to evaluate and improve the quality of justice, such as joint programmes in which practitioners work together to redesign common judicial practices at court level. However, it is a matter of regret that this chapter does not include more information on these joint programmes. In Chapter 9, Emmanuel Jeuland tells us that the quality of justice is not really assessed in France. Only quantity seems to matter. In a context where the policy of numbers has become a vital obsession everywhere, “lay judges must be better educated, statistics must be improved, and satisfaction surveys must be made on a regular basis” (p. 141). Additionally, he recommends that the judgment must be clear and be explained to the parties, and that “the reasoning must be understood and not be stereotyped” (p. 141). In Finland, the quality of judicial reasoning, as with the role of the judge, is controlled by the Constitution. In fact, as Markku Kiikeri asserts in Chapter 10, “there is a role for the Parliamentary Ombudsman and the Advocate General in Finland to provide certain checks, but never on the quality of judgments” (p. 161). Kiikeri analyses the way the quality of legal decisions has been conceived and regulated by the judiciary and legal scholars within the Finnish legal system. He does so by categorising and examining the nature of various quality criteria within a methodological framework. Finally, he critically evaluates the prevailing Finnish doctrine of legal sources and proposes a more principled approach to legal decision-making and judicial motivation (p. 155). In Chapter 11, Zdenek Kühn explains that the idea of “quality control of judicial reasoning” in the Czech legal culture is in conflict with the separation of powers and judicial independence if utilised by the Ministry of Justice in disciplinary proceedings (p. 173). The author focuses on the start of the twenty-first century, when the Czech Republic did not have a single ideal of judicial reasoning which would unite the constitutional, administrative and general judiciary.

In Chapter 12, Ágnes Kovács, Mátyás Bencze and Zsolt Zódi provide insight into the quality of judicial reasoning in Hungary by considering unofficial efforts made in this context by the Curia (Supreme Court of Hungary). One such effort is the appeal ratio, based on a court-user assessment, which serves as a tool in the assessment of the operation of a specific court; another is the personal assessment of the judges’ work by other experienced judges (p. 189). In addition, innovative instruments have been established, such as a stylebook for Curia judges which provides guidance on drafting (p. 192). The authors also examine the possibility of introducing new forms of quality assessment using the reviews of the ordinary court decisions by the Constitutional Court of Hungary and the European Court of Human Rights (in cases against Hungary) as quality indicators. As regards this, the authors seek to reveal “the problems that can contribute to understanding and assessing the roles of these institutions in controlling the way Hungarian ordinary courts justify their judgments” (p. 197).

The issue of judicial reasoning within supranational courts has rarely been addressed. It is therefore very difficult to capture the definition of the quality of judicial reasoning within international courts. In this book, three authors provide an interesting analysis. In Chapter 13, Marjan Ajevski analyses the way in which judgments of the international criminal tribunals have become a judge-made law. In so doing, he analyses the criticisms raised in terms of their interpretation and reasoning. The author concludes that it is hard to give an assessment of the quality of judicial reasoning in international criminal tribunals because of their “ad hoc-ism” (p. 207). In Chapter 14, Gerard Conway analyses the quality of the legal

reasoning of the Court of Justice of the EU from an internal legal perspective. The author looks at the impact of the Lisbon Treaty and Fiscal Compact, recent scholarship and the broader political context in which the court operates. He concludes that “characterizing the quality of the Court depends upon the conception of quality employed and that process-oriented and consequentialist justification can be contrasted in the institutional context of courts” (p. 225). At a time when the legitimacy of the European Court of Human Rights is in question, David Bjorgvinsson discusses in Chapter 15 the legal reasoning in the case law of the European Court of Human Rights. The author disputes “the desirability of consistency in court practice, which, if not respected, may negatively affect public confidence in the judicial system” (p. 251).

It is undeniable that the traditional function of judging is to redress a wrong cause by a violation of a legally authorised standard. However, the issue of the quality of judicial reasoning is very complex, mainly because the functions of judicial reasoning are not always the same. In fact, they depend upon the needs of a society at a given time. The style of legal reasoning varies from case to case. This book deserves praise for making the topic more accessible to the average reader.

With a subject matter such as the quality of judicial reasoning, it is very easy for a book to be sidetracked into a sophisticated discussion of theoretical issues that leads to obfuscation rather than explanation. This book does not fall into that trap. It succeeds in explaining much of the theoretical context, without unduly prolonging the discussion in that area. It achieves an admirable level of analysis of the various complexities attending the quality of judicial reasoning. It is comprehensive in its treatment and easy to read. Overall, the book provides a most valuable contribution to the understanding of this central but complicated and sometimes enigmatic subject matter.

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