

participants. Young's maintenance of the easy, almost jovial, tone underscores the books intention of offering help where so many people have previously struggled.

How to be Happy is a compilation of questions, advice, and information built from the experiences of others, which readers can use to better navigate the potentials of law school. Young recognizes the uniqueness of people and the diversity of their experiences. The inclusion of anecdotes and information from the survey underscore that diversity is not detrimental to law school success. *How to be Happy* encourages students to work, sometimes creatively, within the law school education system while preserving their connections and identity to the world outside the bounds of constitutional law, and the rigorous courses in a legal education. *How to Be Sort of Happy in Law School* is a masterpiece for law students, a book that any graduate or professional student should consider reading and a resource for professors of higher education.

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Constitutional Politics and the Judiciary: Decision-Making in Central and Eastern Europe. *Edited by Kálmán Pócza. Abingdon, Oxon/New York, NY: Routledge, 2018*

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This is an important book for comparative research on constitutional courts for at least three reasons. The first book-length study of the Hungary-based JUDICON project (www.judicon.tk.mta.hu/en) develops and uses an innovative methodological framework to collect data from the text of judicial decisions. Its collaborative and comparative research design on selected courts in Central and Eastern Europe (CEE), including the German case, is excellent. Finally, it pays attention not only to the data derived from the text of the judicial decisions, but also to the context of these decisions. For these reasons, the book provides a significant advance over existing methodological and empirical work on the topic. In the following, I aim to sketch out the major comparative takeaways from this publication, though I cannot do justice to the authors' individual country studies in this short review. Above all, as a qualitative comparativist, I am not in a position to assess the validity of the quantitative methods and data presented in

the book. I can, however, evaluate the assumptions that go into the model used, and analyze the plausibility and the innovative nature of the results, which present strong empirical challenges to some widely accepted beliefs in comparative judicial politics and behavior.

The book's main research questions concern the *diversity* and the *strength* of judicial decisions, namely, the questions "how differentiated are the decisions of the Central European constitutional courts" and "to what extent have these differentiated decisions [...] constrained the room for manoeuvre of the legislature" (3). The background for asking these questions is both political and theoretical. During the recent political backlash against courts in Hungary and Poland, government actors claimed that court-curbing measures were justified in order to remedy pathological judicial activism by the affected courts. Even if most such claims are simply smokescreens to conceal violations of judicial independence, an empirical yardstick is needed against which the truth of such claims can be measured.

From a theoretical perspective, it has often been pointed out that the "mainstream" methods and theories on judicial behavior that have been developed studying the US Supreme Court cannot simply be generalized to explain the behavior of courts in other parts of the world. More recently, protagonists in the field have called for revisiting some of the main assumptions of this literature, even for analyzing the US case. In particular, the exclusive focus on ideology and power plays is found wanting (Epstein and Knight 2013). As Kálmán Pócza and Gábor Dobos note in the chapter on research methodology note, coding decisions using the dichotomies constitutional/unconstitutional and activist/constrained are grossly inadequate to capture the diversity of and within judicial decisions.

The JUDICON research project aims to provide an improved comparative methodological framework and a database of constitutional court decisions in Central and Eastern Europe, including Germany. The data-gathering method of the project contains a number of innovations. First, it shifts the unit of observation from the individual decision to the "rulings" that are contained in the decision. This move very much complicates coding but reflects the fact that a decision typically does not deal with just one constitutional question. Second, it unpacks the constitutional/unconstitutional and activist/constrained dichotomies into a fine-grained grid of "components and elements of judicial rulings," which aims to numerically operationalize the strength of these rulings. This grid roughly includes: (1) the "provision," which can be a rejection (i.e., the decision that no unconstitutionality can be found), or a number of different types of unconstitutionality; (2) the

“completeness” of unconstitutionality, which can be partial or total; (3) the point in time when the ruling takes effect; and (4) the “prescription” contained in the ruling, that is, whether there is any prescriptive effect at all, and if so, whether that prescription is binding or nonbinding. This methodological framework allowed the authors of the individual country studies to code selected judicial decisions and calculate a numerical indicator of the “strength” with which the courts have constrained the legislature. The result of these calculations enables systematic comparison based on solid empirical evidence.

The authors acknowledge that their approach has some limitations, some of which are conceptual, and some due to the quality (and amount) of available and comparable data. Regarding the latter, the project decided to limit the scope of inquiry by analyzing only decisions affecting a law adopted by the legislature. This limitation can be justified by the fact that the main research question is about the relationship between the courts and the legislatures. However, it excludes a vast amount of data in the German case, since most decisions of the Federal Constitutional Court (FCC) concern constitutional complaints.

More problematically, the variable “strength of judicial decisions” can be misunderstood to refer to the empirical impact of the rulings. The authors of the individual country studies do analyze the effects of selected important decisions; however, the quantitative methodology is strictly text-based and cannot tell us anything about impact. The values that are visualized in numerous tables and graphs aim rather to show the extent to which the courts used the legal instruments at their disposal, and the variation in the use of their competencies.

What insights can be generated by the method of the JUDICON team? The individual country studies provide a wealth of data, analyses, and hypotheses, which call for detailed analysis going beyond the scope of this brief review. Rather, I consider here the comparative analysis found in the last chapter of the book, which puts the country-level findings into perspective. The major contribution of the book to the literature is probably its challenge to the often-repeated claim that there is a general trend, at least on the national level, of increasing juridification of politics. If true, we would expect to see an increase in the frequency and/or formal strength of the decisions. Yet this is not borne out by the data presented here. For example, the Polish Constitutional Tribunal (PCT) has consistently, and well before its recent capture by the PiS party, issued relatively weak decisions that have constrained the legislature very little (219). Even the Hungarian Constitutional Court (HCC), often thought of as one of the most powerful courts in the region, does not show any sign of aggressively and consistently constraining the legislature. The

empirical findings show occasional spikes in the strength of constitutional court decisions, which the individual chapters investigate using contextual data. Interestingly, it is not the German FCC that emerges as the court that has been constraining the legislature most, but the Slovak Constitutional Court. In fact, the SCC “persistently outperformed other courts in the region up to the mid-2000s, while the HCC underperformed them more or less consistently from 1994 on” (234). From a more theoretical perspective, the fine-grained methodological framework allows the authors to look into the varieties of decisionmaking and their changes over time. The most diverse rulings were issued by the HCC and the FCC. The German court heavily relied on strong substantive unconstitutionality with prescriptions for the legislature, which characteristic is largely missing in the jurisprudence of its East Central European siblings.

The book is not an easy read for qualitative scholars. As in other data-driven studies, many questions and answers are limited by what the data permit. In contrast to many such studies, however, the JUDICON team has explicitly included contextual analysis of cases and political developments in order to explain some of the data. This combination is a promising way forward and has the potential to move the field toward overcoming the unproductive antagonism between qualitative and quantitative research in comparative judicial studies.

Reference

Epstein, Lee and Jack Knight. 2013. “Reconsidering Judicial Preferences.” *Annual Review of Political Science* 16: 11–31.

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