

Book Review - The Quiet Power of Indicators: Measuring Governance, Corruption and the Rule of Law, by Sally Engle Merry, Kevin Davis and Benedict Kingsbury (eds.)

The Quiet Power of Indicators: Measuring Governance, Corruption and the Rule of Law by Sally Engle Merry, Kevin Davis and Benedict Kingsbury (eds.) is an exciting addition to law and society scholarship. Following their own introduction the editors compile nine case studies that examine how indicators of legal governance are produced, and to what effect. The case studies, presented by expert academic contributors, many with significant parallel experience working as lawyers or social scientists within the jurisdictions and organisations they discuss, include: The Transparency International Corruption (Perceptions) Index, the World Bank's Country Performance Institutional Assessment (CPIA), Freedom House's Freedom in the World indicator, the World Justice Project's measurement of the Rule of Law, the International Finance Corporation of the World Bank's Doing Business Index, the World Bank supported Worldwide Governance Indicators, the Global Reporting Initiative's structure for measuring and reporting on corporate social responsibility, and a number of indicators (including some described above) that are used by the United States (U.S.) Millennium Challenge Corporation for determining which countries are eligible to receive portions of U.S. aid funding.

In presenting these case studies, the text forges intersections between two bodies of scholarship: the sociology of knowledge (which includes literature focusing on the technologies of knowledge and production, and technologies and cultures of specific practices in organisations) and scholarship on regulation and governance. In merging these bodies of literature, the editors present the overall argument that the effects of indicators - the named

collection of rank ordered data that purports to represent the past or projected performance of different units - are closely linked with changes in knowledge/power relationships in governance. Their dual effect on knowledge and power can be direct - when an indicator is used to make a decision, and indirect - when they shape modes of thinking on which decisions are made. The text concludes that the governmental shift to quantitative knowledge is having subtle yet powerful effects on the way the world is understood.

The findings of the book are important because, where indicators are increasingly used in local and global governance, they have not been widely accompanied by systematic reflection on their promises, drawbacks, and overall implications. Significant underexplored questions around indicators, addressed throughout the text, include: what social and historical processes surround the creation and use of indicators? How does the use of indicators in global governance change the nature of decision-making and the nature of law? And how do these factors affect the distribution of power between the governed and the governing?

The editors convincingly reveal that indicators develop through four phases: conceptualisation, production, knowledge treatment and assessment. The conceptualisation of an indicator is effected by actors and institutions, expertise, temporality, and resources. The text outlines that first, actors and institutions who develop indicators determine which particular concepts are to be used, with which theoretical underpinnings, and why. This comes to light in Galit Sarfaty's chapter. Sarfaty discusses the process of developing the Global Reporting Initiative as reflecting a complex negotiation between multiple stakeholders including NGOs, businesses, and governments, whereby the interests reflected in the indicator often matter more to businesses than they do to consumers. The text then emphasises the role that expertise plays in indicator conceptualisation. This is made most clear in Christopher

Bradley's chapter, which explores the emergence of Freedom House from the work of academic and political science experts whose training shaped its methods of measurement. Next, the temporality of indicator development is explored. María Angélica Prada Uribe's chapter for instance finds that increasing concern with the rule of law and corruption is a product of a long-term shift in the way development is perceived. The editors also remind us that indicators must be funded – and the case studies outline ways that sponsorship and funding issues can affect the ultimate construction of the indicator itself.

The editors then reveal that after conceptualisation the indicator moves through the process of production, whereby the conceptualisation of the indicator is matched with related data. In relation to this point, various chapters consider the challenges and limitations associated with data collation. Sarfaty, for example, discusses compliance with GRI standards, where corporations are often haphazardly involved in collecting and collating their own data. Finally, the indicator becomes a source of knowledge used to form background beliefs or understandings and provide a basis for decision and action in government.

Despite its overwhelming strengths, the text raises some theory-related concerns. It is surprising that the editors and contributors do not pay more regard to the well-known concept of governmentality, first introduced by Michel Foucault. As is widely known, statistical measurements are modernist massifying tools for Foucault; tools that allow government to control knowledge and hold power simultaneously through new globalised technologies directed at humankind as a species (distinct from pre-modernist disciplinary modes directed individually at the body). While the editors recognise Foucault as a prominent contributor to the sociology of knowledge, and someone who, like them, has written at the intersection of the sociology of knowledge and science and technology studies in law and society

scholarship, they refrain from articulating that the overarching theoretical framework employed in this text (the epistemological knowledge/power nexus) to study indicators in government, is akin to that employed by Foucault in his *Society Must be Defended* lecture series (Michel Foucault, College de France, 1975-76) and *Security, Territory and Population* series (Michel Foucault, College de France, 1977-1978).

Mihaela Serban's chapter considers Foucault's concept of governmentality, applying it to the analysis of rule of law indicators in Romania. She outlines, for example, that the European Commission's biannual report on Romania's justice and corruption levels includes references to the country's rankings according to Transparency International (TI), The World Bank's World Governance Indicators and Freedom House. Through these statistical measurements, rule of law indicators function as disciplinary mechanisms that are unevenly mobilised in Romania; on the one hand to provide modern governance for the state, and on the other to provide accountability for civil society. But it is somewhat surprising that Foucault's precise framework is not similarly acknowledged as akin to the overall framework developed by the editors.

It also comes as a surprise that no linkages are drawn between the legal indicators explored and legal consciousness literature in socio-legal studies. In their conclusions, the editors suggest that future projects might consider the relationship between legal indicators and the law itself, but nothing is said of the rich potential for studies of legal indicators to be linked to subjective attitudes and understandings about law. This again seems like a missed opportunity – if not for the concrete project to have been begun within the ambit of the text, then at least in terms of a missed delineation of future related projects and for mapping the potential directions of this emerging field. For example, greater reliance on open-ended interview

material as the legal consciousness methodology prefers, or linkages back to legal consciousness studies' discussion of hegemony in terms of entrenched practices and ways of thinking borne out through institutions, may have added further richness to the knowledge/power theoretical framework that is presented. The lack of reference to legal consciousness studies was especially surprising given Sally Merry Engle's prominent contribution to the field (see Sally Engle Merry 1990).

However, in its defence, the text acknowledges that it is an early work attempting to lay the concrete foundations of the field. It might therefore be unrealistic to expect a pioneering text of this nature to amalgamate multiple specific theoretical frameworks - on top of those that were already explored. Perhaps this theoretical project might have distracted from providing the clear detailed factual account of indicators as the concrete contemporary reality that they are. Either way, much could surely be made in the future of the relationship between legal indicators and subjective attitudes towards law under the legal consciousness umbrella and the text lays a promising foundation for this enquiry.

The Quiet Power of Indicators: Measuring Governance, Corruption and the Rule of Law provides a compelling and nuanced account of the centrality of indicators to global government. Though stopping short of articulating some important and directly related theoretical frameworks, this is essential reading for those working at the intersection of law and policy, related subfields in socio-legal studies and studies of public administration and governance, or in the sociology of knowledge and technologies of knowledge and culture that the editors position the study within. It would also be a refreshing and timely read for those working in government, or any other organisations producing the indicators discussed. This is undoubtedly an important text, laying rich groundwork for further study in this emerging area.

References

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