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Quantitative Methods in Comparative Law by PIER GIUSEPPE MONATERI AND MAURO BALESTRIERI [Edward Elgar Publishing, Cheltenham, 2023, ISBN 978-1-80220-444-5, 200pp, £85.00, h/bk]

Comparative law, as both an academic discipline and practice, has been blossoming for several years. Several impactful research monographs, special issues of renowned journals and acclaimed standalone essays have been published and also translated into various languages. To produce original, insightful and impactful comparative law scholarship in such a crowded market is no easy task. A new work on the methodology of legal comparison by Pier Giuseppe Monateri and Mauro Balestrieri, ‘Quantitative Methods in Comparative Law’, manages to achieve just that by blending accurate empirical research, perceptive interdisciplinary analysis and innovative arguments.

In a nutshell, the book argues ‘that the purpose of legal rules is *to prevent* rather than resolve conflicts’ (153 (emphasis added)). To support this claim, it sets forth what the authors call a ‘Conflict Prevention and Friction Analysis (CPFA) Model’,—that is, a theoretical model which, with the aid of quantitative empirical research on several governmental and judicial institutions and activities of key Western jurisdictions, may help us to understand why law’s primary purpose is to avoid, rather than solve, social conflicts. Thus, not only do the authors believe that numbers and quantification are meaningful instruments to comprehend (or more philosophically, make legal sense of) societal interaction; they also believe that ultimately, there is much to be gained by asking whether social conflicts can be avoided altogether rather than just resolved via ordinary or alternative dispute resolution mechanisms, as is the usual approach.

The book is divided into two main parts written by Balestrieri and Monateri respectively, comprising two chapters each, followed by jointly-authored concluding remarks. The first part, by Balestrieri, provides an historical appraisal of the approach to, and use of, numbers and quantitative analysis in law. Monateri begins his contribution in chapter 3, analysing the ‘[quantitative] revolution that comparative law is currently undergoing’ (xii) through the prism of ‘the need to address global issues prompting new directions in [comparative law’s] methods and perspectives’ (ibid). Building on this account in chapter 4 Monateri sets forth the book’s main theoretical thrust concerning the scope and benefits of quantitative analysis in legal comparison. The concluding chapter summarises the book’s main arguments and methodology of inquiry, and sets the stage for further quantitative inquiries in comparative law.

The authors acknowledge past and recent scepticism towards quantitative analysis (x). More specifically, they concede that ‘the use of [such] methods in comparative law is far from the perfect tool for legal comparisons’ (xi), given data limitations and the lack of adequate expertise in both legal and quantitative methods. Accordingly, there are situations in which ‘a quantitative perspective necessitates the development of a distinct and complementary “qualitative” form of reasoning, one that is informed by a different set of skills and sensibilities’ (x). The third and fourth chapters in particular provide telling evidence of this scholarly need.

The study blends accurate empirical research with genuine critical analysis and innovative thinking. The wealth of case studies—from the lifespans, regulatory performances, and ‘political transaction costs’ (149) characterising different types of governmental policies and ‘forms of governance’ (98) of the judiciary in the United Kingdom, to the rationales and impacts of metric assessments such as those of the World Bank and the International Monetary Fund (7, 67f)—is testament to the authors’ efforts to ground their views in robust empirical evidence. In this sense, one of the book’s most valuable features is that, in accounting for the need for new directions and methodologies of inquiry in comparative law, it promotes a theory of quantitative legal comparison that is inherently transnational and transcultural. Accordingly, not only does the study have something to offer to legal scholars and professionals independently of the sociocultural setting within which they operate, it also exposes the methodological limits of some established disciplinary assumptions and sociopolitical ideologies.

As regards the substantive claims made, Monateri and Balestrieri focus their analysis on the social demand and supply of justice. ‘A frictionless society’, they write, ‘would be one in which the social demand for justice is either satisfied immediately or does not arise at all’ (153), arguing against the establishment of such a society. The evidence gathered suggests that rather than leading to economic and societal efficiency, the pursuit of a frictionless society may have the opposite effect and cause, or increase, other and no-less detrimental types of frictions. In turn, this means that ‘a frictionless society may be more unstable or unpredictable’ (166) than would generally be assumed. Thus, the view that massive deregulation is the gateway to optimal socioeconomic efficiency is called into question by Monateri and Balestrieri’s findings (153f).

One feature of the book which might be perceived as a shortcoming is the generic nature of some of the claims made, which may render them of limited practical utility. Granted, the study’s scope is introductory—the authors do not aim to provide an exhaustive account of the multiple declensions that quantitative legal comparison may take. However, to the extent that law is a highly complex and multifaceted regulatory phenomenon (such that what may be appropriate or useful in criminal procedure may not necessarily suit its civil counterpart), more concrete (i.e. discipline-sensitive and context-bound) tools could have been provided to assist readers in making full use of its claims.

Despite this, the book represents a valuable contribution to the literature given its ability to break new scholarly ground without prejudicing the spirit and aims of comparative law. Ultimately, legal comparison is about exploring beneath the surface of legal systems to uncover and examine the inner sociopolitical and cultural dynamics which inform juridical conceptions of order and normative experiences, broadly understood. This task is executed convincingly by merging jurisprudential insights with historical, economic, sociological, philosophical and even mathematical analysis, and in so doing, it indirectly prompts readers to step outside the law to critically consider the views that lie at the core of the Western tradition. Two examples worth mentioning are Aristotle’s claim in Book N of the ‘Metaphysics’, that numbers are concepts derived from physical things, rather than separate, primary substances—a view which has led interpreters ever since to question whether numbers (and more generally, mathematics and quantification) are a viable means to understand and manage the world; and all the ideals—from Arnobius of Sicca to the EU’s policies—regarding the formation of a type of society in which conflicts and competition are replaced by a harmonious form of relational coexistence and cooperation.

Modern society is fundamentally shaped by innumerable acts of measurement, so deeply embedded in daily life that they often go unnoticed. Given this pervasive reliance on quantification, numerical and statistical approaches are essential in all aspects of the legal sphere—whether in legislation, judicial decision-making, or governmental administration. While the book leaves some important substantive and methodological questions unanswered, Monateri and Balestrieri are to be commended for compiling what is sure to become an indispensable introduction to quantitative comparative research in law. Merging rigorous interdisciplinary analysis and insightful comparative legal arguments, this study is not only essential reading for comparative law scholars, policymakers and stakeholders, it also provides a perceptive standpoint from which to assess a whole series of views and beliefs that have proved crucial in the history of Western culture.

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