

Nick Huls | Maurice Adams | Jacco Bomhoff

Editors

The Legitimacy of Highest Courts' Rulings

Judicial Deliberations and Beyond



T•M•C•ASSER PRESS

THE LEGITIMACY OF
HIGHEST COURTS' RULINGS
JUDICIAL DELIBERATIONS AND BEYOND

edited by

Nick HULS
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Jacco BOMHOFF

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**THE LEGITIMACY OF
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FOREWORD

It is difficult to convey what a great surprise (and what an immense pleasure and privilege) it was to have such an exciting international conference organized around *Judicial Deliberations*. Over a year after the 'Legitimacy of Highest Courts' Conference was held at the Erasmus University in Rotterdam, I confess that I am still shaking my head in amazement. The only downside of such a grand event is that it suggests that I must be getting older.

I could hardly have hoped that my first book would lead to such a conference and to the rich discussions and fruitful research that ensued. But Professor Nick Huls, Maurice Adams and Jacco Bomhoff had a wonderful idea: to use *Judicial Deliberations** as an excuse to gather a large number of academics and Cassation judges from a wide range of European jurisdictions. The idea was deceptively simple: to open a debate regarding the somewhat mysterious processes by which the highest courts of different legal systems construct the legitimacy of their rulings.

Professors Huls, Adams and Bomhoff were not satisfied with limiting the discussions to the national legal plane. They chose instead to expand the breadth and depth of the dialogue to the European plane as well: they accordingly invited judges from the Strasbourg Court to join in the discussions. This decision was, I believe, extremely insightful. The ECtHR is a high court in its own right; and to construct the legitimacy of their transnational rulings clearly represents an especially delicate task. This is particularly so today, when the legitimacy of domestic legal rulings increasingly hinge on the European high courts, whose own rulings depend in turn on the rulings of their domestic counterparts. It was therefore particularly rewarding to facilitate a dialogue between academics and high court judges from such a wide assortment of domestic and European jurisdictions.

As a comparatist, I was fascinated to observe both the great similarities and significant differences between the high courts of Belgium, the Netherlands, France and Europe. The Rotterdam discussions strongly suggested that the gathered jurists did indeed belong to one great legal family, even if they hailed from so many Western and Eastern European countries. And of course, agreements *and* disagreements are rarely so meaningful (or so strongly felt) as in family settings....

I am deeply touched that *Judicial Deliberations* helped in some measure to provoke first the Rotterdam Conference and then this volume. The Rotterdam debates were of great interest in their own right. Better yet, they convinced a large and diverse group of judges and academics to pursue their research questions in even greater breadth and depth. The following collection of varied and insightful essays is the remarkable result. I can only give my warmest thanks not only to the organiz-

* Mitchel Lasser, *Judicial Deliberations: A Comparative Analysis of Judicial Transparency and Legitimacy* (Oxford, Oxford University Press 2004).

ers of the Conference, but also to all of those who contributed to this wonderful and original volume. I will learn from them for years to come.

Paris, July 2008

With heartfelt gratitude,

Mitchel LASSER

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