

Contradictions among judges in multi-judge panels aren't self-evident

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Dutch judges feel that multi-judge panels can lead to more carefully

considered rulings. Although research by Reyer Baas shows that they may be right, the added value of collective decision-making is far from guaranteed. Baas will receive his Ph.D. from Radboud University on January 24th.

The Dutch judicial system is currently under pressure. Judges are expected to quickly settle disputes in an enormous bulk of cases: 2500 judges are presently ruling on 1.5 million cases a year. In addition, the judicial system is facing major budget cuts. The resulting tendency for cases to be frequently settled by only one [judge](#) rather than three is less expensive and faster. But whether this situation can continue to ensure high-quality justice remains questionable.

Council chambers

Reyer Baas interviewed 70 judges about their methods of thinking and working. He also attended various cases, both during the court sessions and in the customarily private council chambers. He was consequently able to form an idea of all of the factors that play a role in reaching a legal judgment.

"Many judges feel multi-judge rulings carry more acceptability and authority than rulings by a single judge," Baas said. "In addition, this gives younger judges the opportunity to gain experience and encourages older judges to break with their ingrained notions or habits, by forcing them to consider the insights of others." Because of the shortage of judges, courts are using multi-judge panels less frequently, although this form is still preferred for very complex cases.

Group dynamics

Although there certainly are advantages of multi-judge rulings, their

useful effects are not automatically apparent, according to Baas. There are cognitive pitfalls.

Judges are also susceptible to a form of group pressure. "Compare it to a Christmas dinner with your family. You feel free to discuss things, but you don't want an emotional discussion, because you hope to still get along with your father-in-law in the future," said Baas. "In council chambers there's also sometimes the tendency to keep things convivial, to accept someone's assessment too quickly. That's fine at Christmas dinners, but when determining the truth, you have to be able to sharply question someone about how they have reached their opinion. And others should be able to do the same with you. There has to be a bit of tension, but this is not always the case."

Furthermore, even though the three judges involved in a case consult together in the council chambers, not all of the judges attend the court sessions themselves. "So in practice the opinion of the judge who was present weighs a bit more, even if there are doubts about the truth of what that judge says."

Diversity

To prevent judges from wanting to agree with one another too quickly, contradiction must be organized. "If decision-makers have [diverse backgrounds](#) in, for example, sex, age or culture, there is a bigger chance that they'll enter into a discussion. You won't simply accept someone else's opinion. On the contrary, you'll try to find out who is right. That leads more quickly to a better assessment and a better decision."

"Unfortunately, that diversity is difficult because it is rather limited in the judicial system. Someone who deviates from the standard in these norms and who has just begun as a judge will not always be inclined to break the consensus in the council [chamber](#)."

During their training, judges are warned about the dangers of cognitive pitfalls. However, Baas warns that continual training and coaching are needed, even for experienced judges, in order to continue to prevent these pitfalls. Moreover, colleagues must all participate in reaching a decision and not hide behind another's opinion. "People, including judges, tend to go with the flow. But the law benefits most from [decision-makers](#) who dare to go against the current, who are also critical in council chambers and independent of their colleagues."

Provided by Radboud University

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