relationships, and legal cases do not represent the everyday life of the average Japanese person. I was also left wondering about the role of money and its interaction with love in such court cases and judicial decisions. Is it not the case that economic matters at least partially, and in some cases greatly, shape issues around family and other intimate relations? Money is not the focus of the study; nevertheless, it affects people's daily life and thus behaviors. Attention to economic effects on relationships, even if absent in judicial discussions, would strengthen the analysis, especially in the case of a society like Japan, where a huge gender gap exists in employment and income.

Some might argue that this work trivializes the unique judicial culture of an East Asian society. Rather, I would argue that the book informs how specialists of law like the judges in the study could "translate incidents into legal dramas, morality plays, and cautionary tales" and affect us "by encouraging change and by shaping incentives for proper behavior" (pp. 218–19). Providing insightful evidence and a fresh perspective on conflicts and tragedies around love, sex, and marriage, *Lovesick Japan* prompts us to reconsider the power of law, language, and judicial elites in American society as well.

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Not Guilty: Are the Acquitted Innocent? By Daniel Givelber and Amy Farrell. New York: New York University Press, 2012. 209 pp. $35.00 hardcover.

Reviewed by Nancy S. Marder, IIT Chicago-Kent College of Law

Daniel Givelber and Amy Farrell examine whether those who are found "not guilty" by a judge or jury are actually innocent. The problem, as they explain, is that acquitted defendants are not viewed as innocent, but as guilty—either of the crime charged or of some other crime—and they are seen simply as having benefitted from the prosecution's failure to make its case beyond a reasonable doubt. Even after an acquittal, the charge can come back to haunt a defendant, such as through an enhanced sentence for a future crime. The authors seek to challenge this conventional view of an acquittal. They want to explore when those who are acquitted are actually innocent. To do so, they turn to an early empirical study and to a recent database.

https://doi.org/10.1111/lasr.12013 Published online by Cambridge University Press

Harry Kalven and Hans Zeisel conducted the early empirical study, which they published as *The American Jury* in 1960. They received questionnaires from over 550 judges nationwide in 3,576 criminal cases and asked them to indicate whether they agreed with the jury's verdict (p. 23). One of Kalven and Zeisel's key findings was that judges and juries agreed in about 78 percent of the cases. When there was judge-jury disagreement, judges thought it was because the evidence was close, which "liberated" jurors to introduce their values ("sentiment") into their decision-making. According to this liberation theory, when jurors relied on values, they tended to be more lenient than judges and to acquit in these cases.

To test whether today's juries are liberated in close cases and rely on sentiment, Givelber and Farrell turned to jurors, in addition to judges, to explain judge-jury disagreement. They used questionnaires collected in 2000 and 2001 from a National Center for State Courts (NCSC) study of hung juries in four large metropolitan areas (Bronx, Washington, D.C., Maricopa County, and Los Angeles). Givelber and Farrell found that when jurors were asked to explain their verdicts in close cases, they said that they relied on the evidence. Although the Kalven and Zeisel study relied on judges to explain juries' verdicts, the Givelber and Farrell study, drawing on the NCSC questionnaires, relied on jurors and judges and they gave different explanations.

Givelber and Farrell's book makes several contributions to our understanding of juries, judges, and their views of acquittals. Givelber and Farrell address one of the main flaws of Kalven and Zeisel's methodology: Kalven and Zeisel depended on judges' views of the correct verdict and judges' explanations for why the jury decided the way it did. Givelber and Farrell, using the NCSC database in very original ways, compare jurors' views with judges' views. Jurors suggest that they reached their verdicts based on the evidence, not sentiment. Givelber and Farrell offer reasons why jurors might be more able to see the defendant as innocent than the judge.

Although Givelber and Farrell do a terrific job of revisiting the Kalven and Zeisel study, and using new data to address one of its central deficiencies, their study also has its limitations. First, Givelber and Farrell do not disprove Kalven and Zeisel's judges' "liberation hypothesis"; they merely offer other plausible explanations. Second, they wait until page 75 to describe their study, so the reader encounters a lot of background before reaching the heart of the authors' argument on page 90.

Toward the end of their book, Givelber and Farrell consider the role of race in judges' and juries' decision-making. They note that in Kalven and Zeisel's study, defendants were mostly white (73 percent) or black (27 percent), and that the racial composition of criminal defendants and juries has changed since then. After

https://doi.org/10.1111/lasr.12013 Published online by Cambridge University Press

examining the NCSC data, Givelber and Farrell found that juries are not taking race into account in their verdicts in close cases, but that judges are. I am not yet persuaded by the latter finding. Before I would be, I would want to know about the race of the judges, whether this effect was found in each jurisdiction in the NCSC study, whether there was anything atypical about these jurisdictions, the types of cases heard by these judges, and whether the judges were elected or appointed. The authors should offer some explanations for their disturbing finding.

Givelber and Farrell have written an insightful book that offers a careful analysis of the NCSC data. However, I would also like to know what policy prescriptions follow from their empirical study. The key point, particularly for judges and prosecutors, is that not all defendants who are acquitted are actually guilty. Although this key point challenges the conventional view, the question remains: How should this insight shape our criminal justice system?

https://doi.org/10.1111/lasr.12013 Published online by Cambridge University Press