

Date: 18-19 November 2022

**FINAL CONFERENCE – JUDGES UNDER STRESS**

**Oslo**

Invitation to Submit Abstracts

How do rulers seek judicial compliance with authoritarian measures, how do judges react to such measures, and what are the conditions under which an independent judiciary breaks down? These questions have been addressed from the perspective of institutional theory, looking at the experiences of Central and Eastern European states under communist rule. In this final conference, we will summarise some of the results and point to questions for the future.

**Main speakers:**

Hans Petter Graver

Marek Safjan (tbc mid-March)

Renáta Uitz

Terence Halliday

We invite interested scholars to submit abstracts under the following three headings:

**Institutional path dependence – how legal traditions and culture live on, transform, and disappear**

Our research addressed [hidden continuities](#) in CEE judiciaries as well as [concealed discontinuities](#) and omissions in rule of law conceptualization in the region. The latter line of research also reflected on connections to the current rule of law decay and illiberal attempts. Building on this output, we invite contributions that follow an institutionalist perspective, broadly perceived, to historically, empirically, and theoretically address the breaking point of judicial institutions. We welcome contributions that are comparative in nature.

**Judicial Ideology – how judges see themselves, their role in the legal system**

The concept of ideology has a long history. It started with the ideology as the science of ideas and their origins, followed through Marx's theory of ideology as false consciousness, to Althusser's process of interpellation. As Althusser puts it, "*the individual is interpellated as a (free) subject so that he shall submit freely to the commandments of the subject, so that he shall (freely) accept his subjection, i.e., so that he shall make the gestures*



*and actions of his subjection 'all by himself.'*" In our approach, the ideology represents the imaginary relationship of individuals to their real conditions of existence. The goal of the ideology is to create and mold a subject for the benefit of whatever the power claims to be of value. Subjects do not perceive this influence as artificial or secondary but natural, true, or apparent. Our goal is to focus on judges as subjects and the ideology reflected in their speech and action. It is mainly how judges have seen themselves and how they have perceived their role in the legal system, depending on their social reality. We decided to use the concept of ideology instead of culture, emphasizing the change in material conditions. We encourage critical approaches towards judicial ideology, particularly in critical social changes.

### **Judicial Resistance – how judges can resist and postpone the breaking point of the rule of law**

Politicians already did in the past, do currently, or might in the future, challenge the rule of law and judicial independence and thus put political demands on the judiciary. Courts in different countries face contemporary powerful forces calling for illiberal measures and 'reforming' the judiciary.

Academia does critically assess the measures by which rulers in different regimes seek to influence judges improperly. But it is equally important to explore judicial individual and collective reactions to rule of law backsliding.

Is there a right, or maybe even a duty of a judge to resist illiberal measures that limit the rule of law standards, including judicial independence, even if framed within positive law?

Are there any regulations on the countries level and international level (including drafts, of just debate) regarding judicial resistance, right/obligation of the judge to defend the rule of law, judicial independence, right/obligation of the judge to go public, to take part in the public debate (including in the media): legal provisions, ethical provisions, oaths and similar?

The main focus of the conference will be developments in Europe, drawing on the experiences of the twentieth century to analyse and explain the present situation. However, we also invite contributions from America (north and south), Africa, Asia and Oceania. The project and the conference have judges and judicial institutions as its main object of study, but judges form part of a legal complex (Halliday and Karpic) of lawyers, prosecutors, bureaucrats and civil society.

There will be a concept note under each heading where results of the project will be presented for discussion among the participants.

There is no conference fee, but travel and accommodation must be paid by the participants.

**Abstracts must be submitted to [h.p.graver@jus.uio.no](mailto:h.p.graver@jus.uio.no) by 15. April 2022**