

in cooperation with

Sektion Rechtssoziologie der Polnischen Gesellschaft für Soziologie (PTS)

Sektion Rechtssoziologie der Deutschen Gesellschaft für Soziologie (DGS)

Institut für Soziologie, Universität Warschau

Socio-legal perspectives on the rule of law

Workshop

European University Viadrina, Frankfurt (Oder), Germany/Collegium Polonicum, Stubice, Poland
Thursday, 26 Nov 2020, 12h – Friday, 27 Nov 2020, 13h

The rule of law feeds on the idea of the law's independence; it is based on the assumption of autonomy of the law. Since its beginnings, sociology of law has questioned this autonomy in different ways and with regard to its social functions; socio-legal studies have shown how courts and tribunals, while asserting themselves as "neutral" and "objective", are social and cultural actors embedded in society.

The workshop discusses socio-legal perspectives on the rule of law against the background of current delegitimizations of legal institutions. What is the role of the rule of law in socio-legal terms? We invite socio-legal perspectives to contribute to a debate that so far has taken place primarily in public law and political science. The workshop will focus on social practices and functions of courts and jurisprudence beyond constitutional jurisdiction. To this end, we bring together contributions from sociology of law, political science and legal doctrines on the rule of law.

Thursday, 26 Nov 2020

12.30h Welcome

Keynote: Adam Bodnar

Reception

14:00

Panel 1: Sociology of courts, tribunals and legal professions

Chair: Eva Kocher

Courts, tribunals and legal professions form the center of "the law". The law's independence translates into independence and autonomy of judicial institutions and professions. The panel discusses how these are embedded in different social and political settings.

Rafael Mrowczynski: Post-socialist Transformations, Law-based State (Rechtsstaat) and Institutional Autonomy of Legal Professions

Larissa Vettters: Aspirations of legal concord in asylum appeal hearings. Rule of law practices among administrative judges and their wider perception in public debates about migration and the rule of law in Germany

Britta Rehder: Strategic Litigation and Judge-Made Law. Research Questions and Perspectives

commentaries by Armin Höland

15:45

Panel 2: Sociology of Constitutional Courts

Chair: Michael Wrase

Constitutional jurisprudence has long been considered political. The panel presents the newest approaches to empirical research on constitutional courts and discusses the resulting new insights to an understanding of an “illiberal democracy”.

Oliver Lemcke: Empirical Research on Constitutional Courts: New Approaches and New Designs

Hanna Dębska/Tomasz Warczok: Variable Geometry of Legal Legitimization. The Polish Constitutional Court and the „Populist” Revolution

Silvia von Steinsdorff: Beyond socio-political sources of legitimation: The Constitutional Court of Turkey between legal and political reasoning

commentaries by Christian Boulanger

17:30 Roundtable “40 Jahre Zeitschrift für Rechtssoziologie”

19h Dinner

Friday, 27 Nov 2020

9:00

Panel 3: Situated positions in judging

Chair: Marta Bucholc

The legitimacy of the law depends as much on independence as on objectivity. Feminist criticism has long addressed gender biases in judging. The panel gives examples of the role of gender in judging and discusses how objectivity could reflect the socially situated positions of judges.

Ulrike Schultz: Effects of the Feminization of the Judiciary: Do women judge differently?

Eva Kocher: Objectivity and situated judging

commentaries by Ada Bartnik and Jaśmina Bondara

10:30

Panel 4: Critiques of the law from the political right

Chair: Christian Boulanger

Critiques of the law and denials of its autonomy have long been part of narratives from the political Right. The panel discusses different motifs in and framings of these narratives.

Marta Bucholc: National-conservative critique of law in Poland: a postcolonial narrative of postsocialist legal transformation

Andrea Kretschmann/Walter Fuchs: Right-wing Legal Aesthetics: A force against the Rule of Law

commentaries by Thomas Schmidt-Lux

12:00

Panel 5: Legal cultures in socio-legal perspectives

Chair: Marta Bucholc

Socio-legal studies show that it is not only legal rules and institutional arrangements that take care of the law's independence and autonomy. Legal culture plays an important role in safeguarding and embedding social practices of autonomy. The panel critically discusses these contexts in comparative perspective.

Jan Winczorek/Karol Muszyński: The access to justice gap and the rule of law in Poland

Daniel Witte: Rule of law and legal culture. On cultural conditions, textures and effects of a legal form commentaries by Thomas Scheffer