

Weltregionen im Vergleich: Polity, Politics und Policy

Tagung der Sektion "Vergleichende Politikwissenschaft" der DVPW
25.-27. Februar 2015, GIGA Leibniz-Institut für Globale und Regionale Studien Hamburg

Call for Papers

Panel: Comparing High Courts across Regions and Political Regimes

Panel Convenors:

Stefan Ewert (University of Greifswald), Michael Hein (Humboldt University of Berlin), Charlotte Heyl (GIGA Hamburg), Mariana Llanos (GIGA Hamburg), Alexander Stroh (GIGA Hamburg), Cordula Tibi Weber (GIGA Hamburg) – in cooperation with the Working Group "Politics and Law" in the DVPW

Panel Chairs:

Stefan Ewert (University of Greifswald) and Mariana Llanos (GIGA Hamburg)

Panel Abstract:

Since the late twentieth century high courts worldwide enjoy a growing role in political processes. This empowerment of courts created new political dynamics and an increased interest by elected power holders in controlling the judiciary. This panel invites empirical studies dealing with the relations between high courts and the elected branches, including both the formal and informal features of the institutional context in which these relations take place. The panel seeks to explain intra- and cross-regional differences regarding judicial power and autonomy.

Panel Outline:

Since the late twentieth century high courts worldwide enjoy a growing role in political processes. This holds particularly – but not exclusively – true for constitutional courts, and is mirrored in the fact that in recent decades constitution makers almost always opted for independent constitutional courts. Today, forms of constitutional review and judicial control can be found in all world regions and across different governmental systems. However, high courts are not solely legal, but also political institutions. In particular, the interpretation of constitutional law never takes place in a purely legal space.

Therefore, it is *common sense* (at least in political science) that constitutional adjudication is always subject to political influences. It often leads to an increased interest by elected power holders in controlling the judiciary. Courts face different challenges across regimes. While in mature democracies courts are criticized for establishing a "juristocracy" (Ran Hirschl) or using their power excessively, in new democracies they often struggle for independence after authoritarian experiences in which they served as instruments for rulers to preserve their grip on power by exercising the "rule by law".

Against this background, the study of the political dynamics in which high courts are involved has been booming in the last years. However, existing research largely focuses on a few cases such as the German *Bundesverfassungsgericht*, the *Supreme Court* of the United States, the French *Conseil Constitutionnel* or the Hungarian *Alkotmánybíróság*. The many other high and constitutional courts – especially those outside Northern America and Europe – have been largely neglected in political science research. Additionally, there is a lack of comprehensive comparative area studies and comparative analyses of world regions. Therefore, the further exploration, systematization and analysis of judicial politics necessitates methodological pluralism ranging from theory driven case studies to large-n-statistical analyses. Moreover, the analysis needs to be extended to the informal sphere.

This panel invites empirical studies analyzing the power-balancing activities of high courts and the political arena in which courts operate. We are interested in formal and informal institutions that structure the conditions under which courts work. Papers may focus on different levels of analysis like the formal framework (the constitution and the law), individual judges, plaintiffs, or political actors; they may embrace specific courts or the judicial branch as a whole. In particular, the following questions may guide the discussion: Which factors explain judicial power and independence? How far does the formal law shape the work of high courts? What informal influences of state and non-state actors play a role? What enables courts to act as effective and legitimate arbiters of political conflicts and to constrain political power? Under which conditions do political actors interfere with the judiciary? How does judicial power vary across regions and regimes? In how far do regional factors explain different patterns of judicial independence? How can the seemingly paradoxical establishment or continuing existence of constitutional courts in autocracies and hybrid regimes be explained?

Quantitative as well as qualitative approaches to the study of judicial politics are welcome. The panel seeks to gather studies that examine different world regions to draw a picture of cross-regional similarities and differences. Papers on interesting single cases are also welcome.

Please submit paper proposals in English or German (max. 500 words) to the panel chairs Stefan Ewert (stefan.ewert@uni-greifswald.de) and Mariana Llanos (mariana.llanos@giga-hamburg.de) until 15 November 2014.