

Workshop

Courts and regulation in action: from activism to innovation?

Thursday, 4th of March 2021, *pm*

Friday, 5th of March 2021, *am and later pm*

Via zoom

Themes

Building on the 'law and politics' theme of the first and second workshops – organized as part of the co-operation between the [Law and Society Institute at the Humboldt University](#), Berlin and the [Centre for Socio-Legal Studies at the University of Oxford](#) – this third workshop explores new forms of judicial activism and shifts in regulatory politics as two distinct, sometimes interrelated dimensions of the 'law-politics' nexus.

The workshop addresses the themes of state restrictions on judicial independence as a new form of 'reverse' judicial activism, recent surges in judicial activism that seek to enforce socio-economic and environmental rights in advanced developing countries in response to perceived state regulatory failures, as well as activism among lower courts, rather than just constitutional courts seeking to curb the expansion of executive powers.

Comparative perspectives further help to think through these themes in the context of restrictions of judicial powers, for example in some Central and Eastern European countries, a rise in judicial activism in Brazil and India, and the historic interventions of the UK Supreme Court in the context of Brexit, as well as constitutional court interventions in a range of countries in the context of national security. Such changes in the exercise of judicial powers can have an impact on the executive, and potentially on how executives regulate.

Hence, this workshop addresses questions, such as: what are the consequences of new forms of judicial activism for the exercise of state regulatory powers? Who do activist courts speak to? Does judicial activism sideline reliance on the expertise of regulatory agencies? Can judicial activism promote innovation in regulatory strategies? How do regulators seek to assert distinct administrative rationalities? Do we see different answers to these questions in various jurisdictions?

Participation in this zoom workshop is free. For access to the zoom call link please register [here](#) with Toby Shevlane **by the 1st of March 2021 at the latest**.

Program – via zoom

Date	Session
Thursday, 4.3.2021	Timings are for UK time
15.45-16.00	Welcome Bettina Lange
16.00 – 17.00	Keynote Francesca Bignami Leroy Sorenson Merrifield Research Professor of Law, The George Washington University Law School, US ‘Administrative Legitimacy in the Courts: Procedure Versus Substance’
17.00 – 17.30	Questions and Discussion
17.30 – 18.30	Panel I: Judicial activism or restraint? Chair: Anna-Bettina Kaiser, LSI, Humboldt University Silvia von Steinsdorff, LSI, Humboldt University ‘(Un)intended effects of selected judicial activism in an instable political context: the Constitutional Court of Turkey’ John Paterson, Aberdeen University: ‘The Brexit Decisions from a Systems Theory Perspective: Judicial Conservatism in Action’
18.30– 19.00	Virtual wine and nibbles

Friday, 5th of March, morning

Friday, 5.3.2021	
9.– 10.30 am UK time	Panel II: Judicial activism for national security in action Chair: Bettina Lange Anna-Bettina Kaiser, LSI, Humboldt University ‘Courts in times of crises: Lost in the (common) law cycle? – The case of the Covid Pandemic’ Jessie Blackbourn, Durham University ‘Judicial Deference and Judicial Activism in UK National Security Cases’

	<p>Anna-Julia Saiger, LSI, Humboldt University</p> <p>‘Domestic Courts and International Climate Change Law: What Does the Law Say?’</p>
10.30 – 10.45 am	Virtual tea/coffee break
10.45 – 12.15 am	<p>Panel III: New forms of judicial activism and restraint</p> <p>Chair: Bettina Lange</p> <p>Etienne Hanelt, CSLS, University of Oxford</p> <p>‘The Rule of Law and Public Diplomacy: A Case Study on Hungary’</p> <p>Fernanda Farina, CSLS, University of Oxford</p> <p>‘Judicial Activism from the Bottom-Up: a socio-legal account of access to health care via courts in Brazil’</p>
4.15 pm – 5.45 pm	<p>Panel IV: Regulating ‘in the shadow’ of judicial review?</p> <p>Chair: Jessie Blackbourn, Dept. of Law, Durham University</p> <p>Bettina Lange, CSLS, University of Oxford</p> <p>‘Independent regulators? - Co-producing environmental sciences and regulatory decisions’</p> <p>Kevin Grecksch, CSLS, University of Oxford</p> <p>‘Drought and water scarcity policy in England & Wales – current failings and the potential of civic innovation’</p> <p>Charlotte Elves, Faculty of Law, University of Oxford</p> <p>‘Coronavirus Act 2020: Expertise as insulation from judicial activism’</p>
5.45 pm – 6 pm	Concluding comments, outlook to next activities and farewell