CALL FOR ABSTRACTS
INTERNATIONAL ACADEMIC WORKSHOP

Exploring Linkages between Rule of Law Backsliding and Human Rights: How to Find the Brakes on A Slippery Slope?

Tuesday 26 September 2023, at Utrecht University, The Netherlands

Theme of the workshop and deadline
When a country enters a phase of rule of law backsliding, it often finds itself on a slippery slope that seems to lead inexorably to a full-blown rule of law crisis. The purpose of this workshop is to explore different ways of finding the ‘brakes’ on such a slippery slope, by investigating the linkages between rule of law backsliding and international human rights law and mechanisms. Deadline for abstract submissions: 15 May 2023.

Context
The United Nations Secretary-General has described the rule of law as ‘a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards’.1 According to this definition, no person or politician is above the law, and the very foundations of a democratic society rely upon the rule of law. Nevertheless, in recent years many states around the world have seen systematic threats to their legal and democratic fabric and a declining rule of law.

The phrase ‘rule of law backsliding’ is often used to refer to situations where a country is moving towards a weakening of the rule of law and increased human rights violations. Such a situation may come about as a result of the authorities in power taking steps to weaken democratic checks and balances, manipulate judicial independence or undermine democratic rules and institutions. It may also occur when authorities in power silence opposition voices with restrictions on the freedom of speech or limit the freedom of the

1 The definition of the rule of law according to the UN, Report of Secretary-General: the rule of law and transitional justice in conflict and post-conflict societies(S/2004/616).
press. It may equally involve the stifling of the activities of civil society organisations or human rights defenders. Rule of law backsliding is usually accompanied by fewer or weaker human rights protections, discriminatory laws and policies and political repression. It often includes the withdrawal of previously available rights as well as stagnation in any progress towards a fulfilment of rights.

While there has been quite a lot of attention given to ‘democratic backsliding’ in academic literature, there has been less exploration of the concept of ‘rule of law backsliding’ and more specifically the linkages to the (international) human rights framework. In particular, the drivers of the rule of law backsliding still need to be better understood, in order to move closer to comprehending why each year is bringing less rather than more democracy globally, and why so many countries are moving backwards – not forwards – in global efforts to maintain the rule of law. This may be achieved by a better conceptualisation of the concept of ‘backsliding’ as such and its different manifestations at the intersection of rule of law and human rights. How does the concept connect to different theories of the rule of law and how can it be measured? There is a need for a better understanding of the linkages between rule of law backsliding and domestic sources of discontent, specifically human rights violations, shrinking civic space, socioeconomic factors like rising inequality, rising populism or intensified political polarization. Just like we need more insight into the consequences of rule of law backsliding for human rights protection and its implications for individuals, vulnerable groups, civil society and other parties involved in protecting the rule of law and human rights.

There is also an urgent need to investigate and take stock of the different instruments and tools that have been employed to prevent or slow down rule of law backsliding and explore their relative successes and failures at the domestic, regional and international levels. These may include bottom-up or top-down initiatives that have been designed to put a ‘brake’ on rule of law backsliding or make the rule of law more resilient against slippage. They may involve different actors, take place in diverse spaces or employ different instruments, including law. There is also a need to critically examine rule of law backsliding and its interlinkages with human rights law and international human rights institutions, considering the different roles that these legal frameworks and institutions can play countering the phenomenon of rule of law backsliding at domestic level. The current situation suggests a rule of law crisis may exist not only at the domestic level but also the international level. This makes it is necessary to investigate the relationship between domestic rule of law backsliding and international rule of law backsliding. Is one the driver of the other? And how can international (human rights) institutions be effective vehicles for compliance with the rule of law?

When domestic institutions are unable to safeguard the rule of law and human rights in situations of backsliding, it is necessary to enquire into the roles for United Nations human rights treaty bodies, special rapporteurs, and regional courts and institutions, such as the Inter-American Court of Human Rights, the African Court on Human and Peoples’ Rights and the European Court of Human Rights. Can such institutions potentially help to prevent or counter the rule of law backsliding? Could the experience of such institutions in dealing with earlier, similar developments of rule of law backsliding and human rights shed light on today’s issues? The workshop will see to investigate and evaluate different responses from international human rights institutions, considering questions such as: How can international agreements serve as reliable commitments for civil society actors to mobilize
around and hold their governments accountable? Which mechanisms and remedies does international human rights law provide and which ones would be beneficial to apply, varying from temporary measures to remedies suggesting structural changes? Alternatively, what effect does human rights backsliding at the domestic level have on the ability of international courts, tribunals and human rights bodies to wield legitimate and effective authority over states that are (apparently) less interested in the domestic and international rule of law? How is rule of law backsliding feeding into global or domestic perceptions of the relationship between international law and domestic law, sovereignty and human rights?

In addition to exploring the role of human rights norms and institutions in combatting the backsliding of the rule of law, it is also necessary to understand what effect rule of law backsliding is having on human rights protection. In particular, since rule of law backsliding goes squarely against the often-repeated mantra of an ever-increasing level of human rights protection, it is important to consider how this development influences the substantive standards of international human rights law. Which effects does rule of law backsliding have on different rights, for example the right to a fair trial, and how can one ensure that the courts remain capable of playing their role in protecting democratic channels in the worldwide trend of politicisation of the judiciary? How can international human rights institutions guarantee that these rights are well-maintained in a context of rule of law backsliding? How can they best respond – and put a brake on this slippery slope rule of law backsliding - in order to prevent human rights violations?

Aims of the workshop
This workshop aims to contribute to the debates identified above by encouraging academic reflection. We particularly welcome papers addressing how to understand the linkages between rule of law backsliding and (international) human rights, both conceptually and empirically. We invite papers that reflect on how to strengthen the rule of law at the international level, proposing or evaluating ways to make the rule of law more resilient within the human rights framework, investigating whether and how international and regional human rights bodies can play a role in counteracting states or contributing to efforts to counter the rule of law backsliding. Finally, we welcome papers exploring the implications of rule of law backsliding and the linkages to human rights violations. These may tackle issues such as the right to a fair trial, the independence of the judiciary and the protection of civil society as aspects that are crucial to sustaining the rule of law and protecting individual rights. Developing a coherent legal theory of the rule of law backsliding and human rights requires considering how international norms affect domestic practices and how those norms are transmitted to domestic policy and makers. We also invite papers examining the connection between the rule of law backsliding from comparative contexts rather than merely focusing on one country case study. Finally, the workshop welcomes papers that reflect critically on any aspect of the issues sketched out above or enter into conversation with any of the underlying concepts in this call relating to the linkages between rule of law backsliding and (international) human rights protection in contemporary times.

What should be in the abstract submitted?
We invite proposals for papers comprising an abstract (of a maximum 350 words). These should be submitted, together with a cover letter by May 15, 2023, in one single PDF document. The cover letter should include a one-paragraph CV (of a maximum of 200 words)
and explain in a few sentences the context of the paper: i.e. whether it is part of a PhD project, whether it is based on undertaken empirical research or part of ongoing research etc. Accepted contributors will be asked to provide a draft paper before the workshop. The selection process will be based on both the abstract’s quality and its relation with other submitted proposals. Decisions on accepted papers will be made by early June 2023. After the workshop, we will invite a selected number of authors to submit their paper to be part of a special issue of an international, peer-reviewed journal or an edited volume with a renowned publisher (details will follow).

**Timeline**

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<tr>
<td>15 May 2023</td>
<td>Deadline for abstract submission</td>
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<td>Early June 2023</td>
<td>Decision on accepted abstract and invitation to the workshop</td>
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<td>15 September 2023</td>
<td>Submission of draft papers</td>
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<td>Workshop at Utrecht University</td>
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<td>Early October 2023</td>
<td>Selection of authors for submission of finalised papers for the special issue</td>
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**Practicalities and format**

We aim for a small-size workshop (about 15-25 participants) to allow for intensive, in-depth discussions. It will consist of panel debates for which we would like to include a mixture of early-career and advanced scholars. We envisage four or five sessions, with a few concise presentations per session, thus allowing for sufficient time for deep discussion. Possible sessions will depend on the submissions received, but potential session topics include the following:

**Session 1  Conceptual, theoretical legal aspects of the rule of law backsliding.**

Conceptualising backsliding (and resilience) of the rule of law and its linkages to human rights.

**Session 2  Regional courts and other regional (human rights) institutions.**

Comparative examination of how regional courts and other regional human rights institutions – including the Inter-American Court of Human Rights, the African Court on Human and Peoples’ Rights and the European Court of Human Rights - have experience dealing with earlier, similar developments of rule of law backsliding and human rights.

**Session 3  United Nations human rights treaty bodies and other global institutions**

The role of human rights treaty bodies, special rapporteurs, and others in defending the rule of law and human rights and responding to backsliding.

**Session 4  The effect of rule of law backsliding on substantive human rights protection**

How does rule of law backsliding affect different human rights, including the independence of the judiciary and the right to a fair trial.

**Session 5  General discussion: Strategies of resilience**
Exploring whether and how international and domestic human rights institutions can counter rule of law backsliding.

Please note: the above serve as potential indications of the workshop’s focus - participants do not need to indicate in their abstract which session your proposal fits.

The workshop will be held at Utrecht University in the Netherlands. Regretfully, we cannot cover travel and accommodation costs of participants. Nevertheless, we might offer a few travel support scholarships for a limited number of junior scholars to create an opportunity to participate for those otherwise not able to attend. In addition, we can offer an option for online presentations of those participating remotely.

Submission guidelines and deadline
Please submit the pdf with your abstract, CV and context explanation in one unified document by sending an email with the header ‘Exploring Linkages between Rule of Law Backsliding and Human Rights: How to Find the Brakes on A Slippery Slope?’ before 15 May 2023 to: montaignecentrum@uu.nl