

Call for Papers “Rule of Law and *Rechtsstaat* under Pressure”

Editors:

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Current diagnoses on the state of democracies point to a particular weak point, which is evident in deficits in the development of the rule of law or *Rechtsstaat*. In many states, the rule of law is under pressure; it is being questioned, dismantled or instrumentalised, especially in so-called illiberal democracies. Populist movements and governments question the fundamental checks and balances of the liberal constitutional order. Developments towards "illiberal democracy" show that this nexus between democracy and the rule of law/*Rechtsstaat* cannot be taken for granted. Yet despite the importance of the rule of law for democracy, many studies on the transformation of democracy largely leave this area out. The lack of systematic comparative studies on the rule of law is hardly understandable, as it is intrinsically linked to democracy. The aim of the planned special issue is therefore to close this research gap and, in doing so, to focus on a number of relevant issues.

A first topic deals with the quality of the rule of law. In addition to a differentiated analysis of deficits in the rule of law, their causes will also be analysed in depth. In doing so, we want to focus in particular on the informal embedding of the rule of law and *Rechtsstaat*. Which competing practices and rules undermine the functioning of the rule of law? Here, we can think of a broad spectrum of different possibilities, ranging from legal pluralism to state capture. In addition, the informal penetration of rule-of-law organs by patronage networks or populist governments, which lead to a politicisation of courts in the sense of these actors, can be suggested. In principle, informal practices can strengthen the rule of law and the *Rechtsstaat*, but they can also undermine it (e.g. through practices such as court-capture, court-packing).

Secondly, in addition to the quality of the rule of law, its stability and resilience will also be examined. In analogous studies on the persistence of democracies, reference is made to the congruence of structures and political culture. A corresponding question for the rule of law refers to its integration into the legal culture of the respective country. To what extent does this correspond with the norms and procedures of the rule of law? In this context, the focus of interest is on the elites of a country. Do they accept the rules of the rule of law or do they see themselves as outside or above the law? The practice of the elites has effects on the population. Citizens can follow this example or protest against it in cases of abuse (such as corruption by elites). Conversely, elites could strategically use the low approval of rule-of-law norms among the population to legitimise reforms that run counter to the rule-of-law constitution. Thus, it is also necessary to include the legal culture from below at the individual level. Taken together, this would point to the need for a legal culture based on the rule of law in order to consolidate rule-of-law institutions and make them permanent.

The stated phenomena can be observed on a global scale, but in this special issue, we would like to focus on rule-of-law findings and changes in democracies, and thus cases in America and Europe are of particular relevance in the period of the third wave.

Abstracts may address the following questions and topics:

1. Concepts and measurement of the rule of law/Rechtsstaat and ways of systematising it (such as different rule of law traditions, minimal or dense version, areas of law).
2. Descriptive recording of the dynamics and profiles of the rule of law/Rechtsstaat as well as the relations between the rule of law, democracy and statehood.
3. The investigation of causes can be guided by the following questions: Why does the quality of the rule of law and Rechtsstaat vary across democracies? Why do legal systems develop differently in transformation processes? Why do individual states governed by the rule of law erode or collapse? What makes states under the rule of law stable?
4. Three factors can structure the analysis: Actors, institutions and political culture. In the area of actors, the focus is primarily on right-wing populist parties and governments (e.g. Brazil, Hungary, and Poland). In the case of institutions, the connection between the formal rule of law and informal rules and practices will be examined more closely. In the cultural research perspective, the culture of the rule of law or more precisely the acceptance of the rule of law or distrust of the justice sector among the population and elites. What interactions can be identified? Various aspects can be clustered in terms of historical legacies and path dependencies

Schedule and Deadlines:

Abstracts to this call for papers may be submitted in English by February 17th 2023 to the Journal (zfvp@uni-wuerzburg.de) with the following information:

E-mail subject: Call for Papers ZfVP “Rechtsstaat under Pressure”

Provisional title of the contribution

Abstract of the contribution: 250 - 300 words

If the abstracts are suitable, the authors will be invited to prepare a contribution (first draft), which should be submitted by 31.07.2023. In September 2023, an authors' workshop will take place in Wuerzburg, where the contributions will be discussed together. With this feedback, the contributions can be finalised into a 50.000 characters draft ready for double-blind peer review for submission to the ZfVP and submitted until 31.12.2023. The review process will then begin. The issue should then appear in the second half of 2024.

Submitted manuscripts should not have been published previously, nor be under consideration for publication elsewhere (except conference proceedings papers). Co-authored and multidisciplinary papers are welcome.