

PROFESSOR LINTON SPEAKS AT THE 2017 CONFERENCE OF THE INTERNATIONAL SOCIETY OF PUBLIC LAW

2017 CONFERENCE



Our 2017 Annual Conference took place on July 5-7, 2017 in Copenhagen, under the auspices of the University of Copenhagen's Faculty of Law and iCourts – the Danish National Research Foundation's Center for Excellence on International Courts. The 2017 Annual Meeting's theme will be 'Courts, Power, and Public Law'.

The Program is available [here](#).

The 2017 ICON 9 Conference was jointly organized by



UNIVERSITY OF COPENHAGEN



16 COURT'S UNPOPULAR AUTHORITY AND DEMOCRATIC ACCOUNTABILITY: A STORY OF TWO TABLES

Our proposal explores some crosscutting challenges of Public Power as regards the authority and responsibility of the Judiciary in order to delve into the making of judicial accountability: we want to frame our debate in terms of constitutional design and practice. Our concern is to put forward a comparative outlook from different legal traditions and political perspectives. The grammar of right protections have been modified by experiences where institutional constraints are randomly retained by subtle comparative acknowledgment. Popular, liberal, democratic and/or republican goals are likely to bring about alternative constitutional arrangements ready to build up – or to undermine – Court independence. The core normative elements that we would like to address, then, are likely to be better singled out in a setting of competing constitutional values and goals. Judicial accountability, in this context, is historically determined by a combination of constitutional theories and solutions. How do constitutional duties tackle the complex empirical difficulty? Which are the secondary effects of an unaccountable Judiciary? What are the constitutional responses surveyed in diverse regions of the planet? These are the challenging questions we would like to grapple in Copenhagen.

Participants: Suzannah Linton, Donna Greschner, Benedetta Barbisan, Pablo Riberi
Moderator: Pablo Riberi
Hosts: SA, 3-17

Suzannah Linton: "Guarding the Guardians" or abuse of power? Reflections on the Impeachment of Chief Justices in the Philippines and Sri Lanka

Through the two case studies, this presentation will trace those issues that appear to be critical-ensuring that when exercising prohibitive action against judges, a correct balance is achieved: due process, the preservation of structural and substantive independence of the judiciary, and the maintenance of professional standards on the bench.

Donna Greschner: Judicial Control of Abusive Prime Minister Power: Recent Canadian Experience

With the 2015 election of a progressive Liberal government, Canada may seem immune from the 'Maccabean' threat that is eroding democratic practices in some European countries and beyond. However, the previous Conservative Government led by Prime

Minister Stephen Harper (2006-2015) was marked by numerous instances of impotence – if not absolute – executive power. Several of these instances came before the courts. This paper will examine whether the Canadian judiciary was effective in limiting high-level abusive exercises of executive power, what lessons may be drawn for other parliamentary systems, and what insights the experience may offer for broader debates about judicial legitimacy and accountability.

Benedetta Barbisan: The "Unpopular" European Court of Human Rights: A Report from the Unyielding Public Power in Europe

Judicial power in Europe is more powerful than ever and yet under a certain demoralization. In the United Kingdom, just a few months ago, the Government has pledged to scrap the Human Rights Act in favour of a more domesticated British Bill of Rights, intending to disempower the foreign European Court of Human Rights (ECtHR) by nullifying its jurisdiction on national laws. Concurrently, the Turkish President Erdogan has announced the suspension of the European Convention of Human Rights (ECHR), blocking the ECtHR's jurisdiction out. Already in 2015 France had opted out of some of the ECtHR's guarantees during the state of emergency. How popular is still the judicial power in Europe and what is its relation with political power?

Pablo Riberi: Unfettered Judges, Untamed Presidents. Reactionary Representations - Prevalent traits in Latin American new readings of separation of powers

There are immense debates from Latin American constitutional design. Power concentrating instincts and non-democratic hypotheses have seldom been detested by normative practitioners. In several countries, the atavistic level of "checks and balances" has been falling in either oligarchic impulses or populist rallies. In many politics, the interplay of the political branches and the judiciary has come along with a particular labeling of the public opinion, when not a blatant colonization of the very idea of the common good. The lack of fair constitutional conditions for administrative, legal and political accountability makes judges vulnerable targets and/or aggressive agents of authoritarian impulses.

CONCURRING PANELS

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The 2017 Annual Conference of the International Society of Public Law on the theme of 'Courts, Power and Public Law' was held over 5-7 July 2017 in Copenhagen, Denmark. It took place under the auspices of the University of Copenhagen's Faculty of Law and iCourts (the Danish National Research Foundation's Center for Excellence on International Courts). Close to a thousand lawyers from around the world attended. There were 199 parallel panels, and three plenary sessions.

ZJGSU Law School's Professor Suzannah Linton participated in the event, and spoke on a panel examining judicial accountability and constitutional power through a comparative lens. The panel was organised and chaired by Professor Pablo Riberi of the Catholic University of Cordoba in Argentina. Professor Linton reflected on 'Guarding the Guardians or Abuse of Power' in relation to the impeachments of Chief Justices in the Asia-Pacific region, with focus on the Philippines and Sri Lanka. Professor Riberi introduced the situation of judicial accountability in Latin America, Professor Benedetta Barbisan (University of Macerata, Italy) spoke on constitutional challenges to the decisions of the European Court of Human Rights and Professor Donna Greschner (University of Victoria, Canada) spoke on judicial controls on abusive governance arising from her research into constitutional abuses by the Harper government in Canada.