CHARLES UNIVERSITY

IMPURE:
The impure science of law:
Constitutional scholars in democracy

14-15 May 2026, Faculty of Law, Charles University in Prague

The conference is funded by Donatio Universitatis Carolinae Chair, awarded to Jan Komárek for the period 2025-2026.

Constitutional scholars occupy a paradoxical position in contemporary democracies. They are trained as analysts of constitutional authority, yet they routinely help shape the very political and legal orders they study. Their work circulates across three interconnected fields — academia, constitutional practice, and the public sphere — where it acquires forms of power, autonomy, and accountability that are rarely examined in a systematic way. As democratic systems face renewed pressures, from populist movements to the commercialization of higher education, understanding this "impure" role of constitutional scholarship becomes increasingly urgent.

This conference brings together scholars from law, sociology, political science, and Science & Technology Studies to explore how constitutional expertise is produced, legitimized, and contested across different jurisdictions. Through four thematic panels, we examine the symbolic power of legal ideas, the changing conditions of academic freedom, the implicit protocols that govern scholarly authority, and the evaluation regimes that shape academic life. Our aim is to open a broader, interdisciplinary conversation about the place of constitutional scholars in democracy — and about the responsibilities that come with their influence.

PROGRAMME:

[Abstracts and speakers' bios follow on p. 4]

THURSDAY, 14 MAY:

10:00-10:30 **Introduction: Jan Komárek** (Donatio Universitatis Carolinae Chair, Faculty of law, Charles University)

10:30-11:30 **Keynote lecture: Sheila Jasanoff** (Pforzheimer Professor of Science and Technology Studies, Kennedy School of Government, Harvard University): MODERNITY'S TACIT CONSTITUTION: THE SILENT CONVERSATION BETWEEN LAW AND SCIENCE

11:30-13:00 Buffet Lunch

13:00-14:30 **Panel 1: The power of ideas or what?** *This panel explores how constitutional scholarship generates and circulates symbolic power across different social fields,*

shaping political orders in ways that often exceed the boundaries of legal doctrine. David Swartz examines how American conservative intellectuals — including the "academic Trumpists" — mobilize constitutional ideas through dense networks of think tanks and ideological institutions, revealing how scholarly authority can be weaponized in anti-democratic projects. Päivi Leino-Sandberg turns to the European Union, showing how EU law functions as a professional language whose internal grammar privileges certain institutional perspectives and constrains democratic contestation. Hilton Simmet complements these analyses by tracing how economists construct culturally grounded visions of justice, demonstrating that expertise itself is never neutral but embedded in broader political imaginaries. Together, these papers illuminate the mechanisms through which ideas acquire authority, travel across fields, and shape the constitutional imagination of entire societies.

David L. Swartz (Visiting Researcher, Department of Sociology, Boston University): HOW AMERICAN ACADEMIC TRUMPISTS USE THE *CONSTITUTION*

Päivi Leino-Sandberg (Professor of Transnational European Law, University of Helsinki): THE POLITICS OF A PROFESSIONAL LANGUAGE

Hilton Simmet (Research Associate at the Research Institute for Sustainability and affiliate of the Program on Science, Technology and Society at Harvard Kennedy School): MORE THAN NEOLIBERALISM: THE BIRTH OF JUST ECONOMICS

14:30-15:00 Coffee Break

15:00-16:30 **Panel 2: Academic freedom and its enemies:** *This panel examines the changing conditions of academic freedom by situating it within the political, economic, and institutional pressures that define contemporary universities. Vasiliki Kosta and Olga Ceran show how EU law and policy contribute to the commercialization of academia, raising questions about whether the fundamental right to academic freedom can withstand market logics and managerial governance. Mateusz Wojtanowski interrogates how academic institutions reflect — or reproduce — broader politico-legal cultures, suggesting that the academy's autonomy is always shaped by the political environment in which it operates. Jakub Łakomy deepens the discussion by arguing that internal professional norms, what Stanley Fish calls "professional correctness," can themselves constrain scholarly autonomy, especially in a discipline like constitutional law that is structurally entangled with politics. Together, these contributions reveal that threats to academic freedom arise not only from external political interference but also from the internal dynamics of the academic field itself.*

Vasiliki Kosta (Associate Professor, Faculty of Law, Leiden University) & **Olga Ceran** (Postdoctoral Researcher in Law and Philosophy, Faculty of Law, Leiden University): COMMERCIALISATION OF ACADEMIA, EU LAW, AND ART. 13 OF THE EU CHARTER

Mateusz Wojtanowski (Assistant Professor, Faculty of Law, University of Wrocław): THE ACADEMY: BEYOND POLITICO-LEGAL CULTURE OR ITS EXPRESSION?

Jakub Łakomy (Faculty of Law, University of Wrocław): THE IMPURITY OF ACADEMIC FREEDOM: PROFESSIONAL CORRECTNESS AND THE AUTONOMY OF CONSTITUTIONAL SCHOLARS [online]

18:00 Dinner for speakers and guests

FRIDAY, 15 MAY:

9:00-10:30 **Panel 3: "Unruly disciplines"/scholarly protocols:** *This panel investigates the implicit evaluative standards and disciplinary boundaries that determine what counts as legitimate constitutional scholarship. Michał Pazdziora traces the historical construction of legal epistemic authority in Poland, showing how the discipline's claim to neutrality and expertise has, over time, produced forms of epistemic closure that can undermine democratic deliberation. Filip Horák and Gor Vartazaryan turn to the problem of evaluation itself, asking how constitutional legal research can be assessed in a way that reflects its methodological diversity and its inherently interdisciplinary character. Their analysis highlights the tensions between doctrinal traditions, interdisciplinary approaches, and the expectations of contemporary academic institutions. Together, the papers illuminate the often-unspoken "scholarly protocols" that govern the field and shape the possibilities for reflexive, critical, or heterodox work.*

Mattias Kumm (Inge Rennert Professor of Law at New York University School of Law& Research Professorsh on "Globalization and the Rule of Law", WZB and Humboldt University in Berlin): AFTER "PURITY": ON LEGITIMATE AND ILLEGITIMATE BASTARDIZATION OF LEGAL RESEARCH, WITH A PARTICULAR FOCUS ON CONSTITUTIONAL LAW [online]

Michał Pazdziora (Assistant Professor, Faculty of Law, Univeristy of Wrocław): LEGAL EPISTEMIC AUTHORITY IN POLAND, 1982–2020: A THEORETICAL AND SOCIOLOGICAL ANALYSIS

Filip Horák (Assistant Professor, Faculty of Law, Charles University) & **Gor Vartazaryan** (MPhil candidate at the Centre for Socio-Legal Studies, University of Oxford, PhD candidate, Faculty of Law, Charles University): HOW AND WHY EVALUATE THE QUALITY OF CONSTITUTIONAL LEGAL RESEARCH?

10:30-11:00 Coffee break

11:00-12:30 **Panel 4: "Evaluation Games":** *This panel examines how research evaluation systems and funding regimes function as external mechanisms of accountability that reshape the production of constitutional scholarship. Jakub Krzeski analyzes how excellence frameworks in post-socialist contexts govern academic scarcity and redirect scholarly priorities, revealing the political economy behind seemingly neutral evaluation tools. Rob van Gestel offers a critical account of how doctrinal legal scholarship is assessed — and often undervalued — within contemporary academic systems, raising questions about what kinds of knowledge these systems are designed to reward. Robert Zbíral brings the discussion to the Czech context, showing how national funding structures influence the direction, legitimacy, and even the identity of legal research.*

Together, these papers demonstrate how accountability mechanisms redistribute power within the academy and determine which forms of scholarship thrive, survive, or disappear.

Jakub Krzeski (Assistant Professor at the Department of Philosophy and Social Sciences of Nicolaus Copernicus University): THE EXCELLENCE *DISPOSITIF*: GOVERNING SCARCITY THROUGH RESEARCH EVALUATION IN POST-SOCIALIST POLAND

Rob Van Gestel (Professor, Tilburg Law School): EVALUATING DOCTRINAL LEGAL SCHOLARSHIP: ABOUT THE GOOD, THE BAD, AND THE UGLY

Robert Zbíral (Associate Professor, Faculty of Law, Masaryk University): MISS OR HIT TO DESTINATION UNKNOWN: THE PERENNIAL SEARCH FOR (AN IDEAL) SYSTEM OF FUNDING LEGAL SCHOLARSHIP IN CZECHIA

12:30-13:30 Buffet Lunch

13:30-15:00 **Roundtable discussion: Who rules in times of academic capitalism?** *The roundtable brings together the conference's central themes to ask how contemporary universities — shaped by managerialism, competition, and performance metrics — redistribute power, autonomy, and accountability within the legal academy. Participants will reflect on how academic capitalism transforms the role of constitutional scholars, how it reshapes the boundaries between scholarship and politics, and what forms of resistance or reinvention might be possible in an era of intensifying pressures on academic life.*

15:00-16:00 **Jan Komárek** (Donatio Universitatis Carolinae Chair, Charles University in Prague): CONSTITUTIONAL SCHOLARS AS A "DIFFUSE BRANCH"?

PAPER ABSTRACTS AND AUTHOR BIOS:

MODERNITY'S TACIT CONSTITUTION: THE SILENT CONVERSATION BETWEEN LAW AND SCIENCE

Legal scholars have long asked whether law in general and constitutional law in particular can be seen as sciences and thereby claim the social authority and legitimacy due to science. The arrival of "science and technology studies," or the social and political study of scientific and technical practices, has added a new dimension to this recurrent question. From a standpoint in STS, I reframe the central question of law-science relations as one of co-production: how do these two constitutive elements of modern social order define and demarcate each other so as to partner in projects of governing society? To what extent does the relationship vary by cultural context, especially across diverse legal and political cultures? In exploring these questions, I will draw on recent decisions in US constitutional jurisprudence, as well as conceptual resources from STS such as the notion of civic epistemologies.

Sheila Jasanoff is Pforzheimer Professor of Science and Technology Studies at the Harvard Kennedy School. A pioneer in the social sciences, she explores the role of science and technology in the law, politics, and policy of modern democracies. She founded and directs the STS Program at Harvard, where she also formed the Science and Democracy Network; previously, she was founding chair of the STS Department at Cornell. In 2022, she received the Government of Norway's Holberg Prize for law, humanities, and social sciences.

HOW AMERICAN ACADEMIC TRUMPISTS USE THE *CONSTITUTION*

As is widely known – both in public opinion and social scientific research – American colleges and universities tend to have a campus culture that is socially and culturally liberal and politically left. American conservatives, both on and off campuses, have complained for years about this liberal campus culture that embraces diversity and supports affirmative action for women and minorities. Students and faculty, [overwhelmingly] by and large, did not vote for Donald Trump in 2016, 2020, or 2024. Yet, there are a number of conservative professors and a few of them publicly support Trump [Trumpism]. My 2025 book, THE ACADEMIC TRUMPISTS: RADICALS AGAINST LIBERAL DIVERSITY (Routledge), presents findings on 109 professors who are public intellectuals supporting Trump. A few of them teach in law schools. (The most well-known is John Eastman who attempted a legal argument for why the 2020 Biden victory over Trump should be disqualified by the US Congress.) My presentation will identify their institutional locations, academic disciplines, intellectual orientations (their embrace of originalism for interpreting the Constitution), political dispositions (profoundly anti-establishment), and their social networking to a vast array of conservative think tanks beyond the academy, the Claremont Institute, the Heritage Foundation, and the Federalist Society being among the most important. Attention will be given to how their views of the Constitution fit with their anti-establishment dispositions and call for an authoritarian leader who will radically change political institutions in order to re-capture the "original intent" of the Declaration of Independence and the Constitution.

Retired from full-time teaching, **David L. Swartz** is currently Visiting Researcher in the Department of Sociology. He is one of the editors of the new online journal Theory and Social Inquiry. His most recent book is *The Academic Trumpists: Radicals Against Liberal Diversity* (Routledge 2024). An earlier book, *Symbolic Power, Politics, and Intellectuals: The Political Sociology of Pierre Bourdieu* (University of Chicago Press 2013) was co-winner of the American Sociological Association History of Sociology Section Best Book Award in 2014. He is currently researching divisions in American conservatism with particular focus on the attitudes of conservative professors toward the Trump presidency and their affiliations with conservative think tanks.

THE POLITICS OF A PROFESSIONAL LANGUAGE

My recent work has examined European Union (EU) law as a professional language. This perspective enables us to see how policy goals turn into rules that we consider binding or authoritative and that make us believe in the beneficiality of whatever is being proposed as representative of 'integration'. In EU law, the standard of professional competence is often set by practitioners and members in EU institutions. Their views about what the real 'problems' are, and what are the proper ways to resolve them, become professional standard-setters. To be a professional EU lawyer is to share the grammar of functionalism. Under these rules, it seems that the rights that the citizens hold against the EU find no articulation.

As legal scholars, it should be a matter of professional pride to go beyond just examining and echoing what the EU institutions and their lawyers say. We are placed between the dialectics of being either inside or outside the EU legal professional community, and need to position ourselves in relation to continuity and change of this professional language. Commitment to the language of EU law is

required to maintain influence, prestige and professionalism. At the same time, it is important to maintain one's identity and critical power as an external observer. With my work, I hope to create conditions for a broader grammar of EU law that would translate the choices between priorities into political terms and stop seeing democracy as a threat to the European Union, but instead, allow subjecting its legal and policy choices to critical debate.

Päivi Leino-Sandberg is Professor of Transnational European Law, University of Helsinki, and Deputy Director of the Erik Castrén Institute of International Law and Human Rights where she has led various international research projects relating to EU decision making and governance. Before returning full time to the academia in 2015, she worked for over 10 years as a legal adviser for the Finnish government, and continues to advise the Finnish parliament and other institutions. Her recent books include *The Politics of Legal Expertise in EU Policymaking* (CUP 2021), and three co-edited collections of essays *Law, Legal Expertise and EU Policymaking* (CUP 2022), *(In)visible European Government. Critical Approaches to Transparency as an Ideal and a Practice* (Routledge 2023) and *Dynamics of Powers in the European Union* (Hart Publishing 2024). Her new monograph (co-authored with Peter Lindseth) *European Integration in the Constitutional Borderlands. The NextGeneration EU Model and the Struggle for Europe's Future* will be published by Oxford University Press in May/June 2026.

MORE THAN NEOLIBERALISM: THE BIRTH OF JUST ECONOMICS

Economics has been subject to sustained critique in the social studies of science. Economics on this view makes unsupported assumptions about human rationality, favors market-based solutions to policy problems, and fails to grapple with questions of power. One particularly prominent argument made over the last twenty years is that economics, far from being an objective science grounded in immutable social reality, is the field (or episteme) that corresponds to, and indeed reinscribes, the political project of "neoliberalism." This talk problematizes that characterization by looking at variation within economics. Specifically, using methods of comparative studies in STS, this talk illustrates three schools of thought in the economics of inequality: led by the US-based "randomistas" Esther Duflo and Abhijit Banerjee, the "rock star" French economist Thomas Piketty, and in India the "jholawala" economist Jean Drèze. Each of these economists is interested in using economic instruments to address problems of unequal societies. However, they do so, I argue, not by appealing to abstract and universal "neoliberal" ideas of rationality, markets or neutral expertise but by using their expert tools to realize distinct, culturally-grounded visions of a just society.

In the first part of the talk, I show how these economists have diagnosed and critiqued the supposed methodological presumptions of their own field through their respective appeals to experiments, statistics and experiences. In the second part, I look at their analyses of the specific policy domain of education, to show how they imagine their tools to, respectively, advance opportunity for the poor, reduce distributional differences in income and wealth between the rich and the rest, and recenter the experiences of the poor within structures of state power. I conclude by reflecting on the economics of inequality as contributing to live political debates about forging a more just social compact between states and their citizens rather than as perpetuating fixed methodological dogmas or political doctrines. This analysis, I suggest, is consistent with STS's longstanding presumption that scientific practices do not conform to universal exogenous standards but rather are co-produced along with the cultural formations within which they are developed and achieve significance.

Hilton Simmet is a Research Associate at the Research Institute for Sustainability. Having completed his Ph.D. in Public Policy at Harvard Kennedy School in 2025, he specializes studying the role that economics expertise play in developing solutions to problems of poverty, inequality and development. His more recent work is exploring the role that

environmental economics plays in addressing the "growth paradigm" in public policy and concerns about environmental "limits." Previously, he has also looked at the role that energy technologies have played in imagining the transformation of societies in the global South.

COMMERCIALISATION OF ACADEMIA, EU LAW, AND ART. 13 OF THE EU CHARTER

This contribution will analyse select areas of EU law and policy action that potentially contribute to or otherwise relate to the 'commercialisation of academia' and will assess those in light of the fundamental rights standard contained in Art. 13 of the EU Charter. The notion 'commercialisation of academia' will be understood broadly (based on the AFITE project) to mean first, that higher education institutions adopt market and market-like behaviours; second that they are organised according to corporate management principles; and third, that they follow the rationality of other systems of society rather than its own rationality. This contribution will set out the nexus of 'commercialisation' and the EU's activities in the European Higher Education Area, the European Education Area and the European Research Area, as well as its internal market law mechanisms that have an impact on national law and policy in the field of higher education, to then illustrate how such activity could be assessed based on academic freedom as an EU fundamental rights standard.

Vasiliki Kosta is Associate Professor of EU Law at Leiden University. She holds a PhD in Law from the European University Institute in Florence. Her research interests lie in EU fundamental rights law and more broadly in 'horizontal' issues, i.e. institutional and constitutional questions spanning different policy areas of EU law, and especially EU Internal Market Law. Since 2022 she is leading a research project on freedom of the sciences/academic freedom in EU law and the commercialisation of academia, financed by a Vidi grant of the Dutch Research Council (NWO). She is member of the Committee for the Freedom of Scientific Pursuit of the Royal Netherlands Academy of Arts and Sciences (KNAW), and of the KNAW Committee writing an advisory report on legal safeguards for academic freedom on request of the Dutch Minister of Education, Culture and Science. She is also board member of the Young Academy of the KNAW.

Olga Ceran is Postdoctoral Researcher in Law and Philosophy at Leiden University, where she works on a research project on freedom of the sciences and academic freedom in EU law and the commercialisation of academia, led by Vasiliki Kosta. She holds a PhD in Law (2022) from the European University Institute in Florence. Her research interests lie in EU fundamental rights, comparative law, and the dynamics of Europeanisation in law. She is particularly interested in the effects of EU law and policy in areas that remain primarily outside EU competence. In 2023-2024, she was a re:constitution Fellow, focusing on academic freedom in the context of the EU Rule of Law Toolbox. For 2025-2026, she was selected as a Mellon/SAR Academic Freedom Fellow with a project on the linguistic dimension of academic freedom in Europe. She is also Co-Manager of the Research Network on Academic Freedom and Faculty Representative of the Open Science Community Leiden.

THE IMPURITY OF ACADEMIC FREEDOM: PROFESSIONAL CORRECTNESS AND THE AUTONOMY OF CONSTITUTIONAL SCHOLARS

Contemporary debates on academic freedom tend to frame it in narrowly legal terms, as a constitutional right shielding scholars from external interference. While this framing captures an important dimension of the problem, it obscures the distinctiveness of constitutional scholarship as a discipline that is, by its very nature, impure: simultaneously embedded in the academic field, the political-juridical field, and the public sphere.

My paper argues that a purely rights-based account of academic freedom is insufficient for understanding the specific threats, tensions, and responsibilities that constitutional scholars face in contemporary democracies. Instead, it proposes an argument that uses Stanley Fish's neopragmatist concept of "professional correctness". The paper develops three interconnected arguments. First, it reconstructs Fish's challenge to liberal free speech absolutism and his insistence that academic freedom is not a universal right, but a context-dependent privilege grounded in the internal standards of a scholarly profession. On this account, what protects the academic is not an abstract entitlement to speak freely, but the disciplinary norms, shared interpretive practices, and professional ethos that define competent scholarly work. Freedom of expression in the university is inherently bounded by what Fish calls "professional correctness", a standard that shields genuine scholarly inquiry from external political pressure while simultaneously refusing to extend protection to the mere appropriation of the academic platform for partisan advocacy.

Second argument subjects Fish's model to a critical test by confronting it with the specific condition of constitutional scholarship. If professional correctness depends on a stable, internally coherent disciplinary community that can police the boundaries between legitimate scholarly argument and political advocacy, then constitutional law presents a fundamental difficulty: its "professional" standards are themselves embedded in "the political". Constitutional scholars do not merely study power from a distance, they participate in the production and legitimation of the constitutional-political order through doctrinal constructions, advisory roles, expert opinions, and public commentary. The paper demonstrates that the autonomy of constitutional scholars cannot be adequately grasped through Fish's binary of "academic" versus "political" speech, because the discipline's very authority derives from its simultaneous presence across multiple social fields.

Thirdly, the paper argues that threats to the autonomy of constitutional scholarship are not only external but also internal to the field itself. The logic of academic capitalism subjects scholarly work to permanent audit, evaluation, and funding-dependent accountability mechanisms that may systematically undervalue the academic, scientific job. The paper thus identifies a structural paradox: the very impurity that gives constitutional scholarship its power and social relevance also renders the conventional defences of academic freedom, whether liberal-absolutist or professionalist, inadequate.

The paper concludes by exploring what a new notion of academic freedom might look like for a discipline that cannot, and should not, aspire to Kelsen's purity: one that acknowledges the entanglement of scholarship with power and politics, yet insists on forms of reflexive disciplinary practice capable of maintaining meaningful autonomy in the era of culture wars and rising authoritarianism.

Jakub Łakomy, PhD, assistant professor at the Department of Theory and Philosophy of Law, Faculty of Law, Administration and Economics, University of Wrocław. A researcher on three research projects funded by the National Science Centre in Poland, currently working on the project "Academic freedom of expression in the era of culture wars in Poland". My research interests include legal interpretation, legal methodology, and the relationship between law, politics, and morality. My monograph on the political nature of legal interpretation has recently been published: Polityczność interpretacji prawniczej Perspektywa Duncana Kennedy'ego i Stanleya Fisha, Wrocław, 2025r. [The Political Nature of Legal Interpretation: The Perspective of Duncan Kennedy and Stanley Fish] https://wuwr.eu/wp-content/uploads/2025/12/lakomy_politycznosc-interpretacji_-calosc.pdf

AFTER "PURITY": ON LEGITIMATE AND ILLEGITIMATE BASTARDIZATION OF LEGAL RESEARCH, WITH A PARTICULAR FOCUS ON CONSTITUTIONAL LAW

The structure of the presentation would be as follows:

I. Evaluative standards and legal scholarship in the history of European legal scholarship:

- *The impurity of "legal science": Against Kelsen as a radical outlier.*
- *The irreducibility of the legal perspective: Against "realism" as a form of legal scepticism*
- *On the interdisciplinary syncretistic openness of legal argument: Law is not pure, but what kind of bastardization could plausibly ground its status as a science?*

II. Evaluative standards and the special case of constitutional scholarship: The constitution as foundation and framework of politics

- *False formalism: The constitution as a super-statute?*
- *Taking the American and French Revolutions seriously: rights foundationalism and the "total constitution"*
- *Conceptions of law, conceptions of politics: The boundaries of constitutional law. The legal constitution of legitimate politics. Securing democratic legitimacy and reasonableness, not justice. The space for political contestations, reasonable disagreement and its boundaries.*

Mattias Kumm is Inge Rennert Professor of Law at New York University School of Law, as well as holding a Research Professorship on "Globalization and the Rule of Law" at the Social Science Research Center (Wissenschaftszentrum Berlin für Sozialforschung, WZB) and Humboldt University in Berlin. His research and publications focus on basic issues in European and comparative constitutional law, international law, and philosophy of law. Kumm joined NYU School of Law in 2000 after studies in law, philosophy, and political science in Kiel, Germany, and Paris and doctorate work at Harvard University. He holds a part-time joint appointment as a professor for global public law at the WZB Social Science Research Center and Humboldt University, both in Berlin. He has held visiting appointments at Yale Law School, Harvard Law School, and the European University Institute (Florence), and has lectured at other leading universities worldwide. Kumm is a founding editor and editor-in-chief of Global Constitutionalism (Cambridge University Press) and on the board of I•CON and other journals, as well as a member of the faculty advisory committee of the Institute for International Law and Justice at NYU Law.

LEGAL EPISTEMIC AUTHORITY IN POLAND, 1982–2020: A THEORETICAL AND SOCIOLOGICAL ANALYSIS

This paper examines the emergence and transformation of legal epistemic authority in Poland from the late socialist period to the present, with particular attention to its increasingly anti-democratic trajectory. It begins by distinguishing between analytical and sociological approaches to epistemic authority in law. The analytical perspective tends to conceptualize epistemic authority as a static and normatively justified phenomenon grounded in cognitive privilege, technical expertise, and the internal rationality of legal reasoning. By contrast, the sociological approach foregrounds the historical, institutional, and political conditions under which such authority is constructed, stabilized, and contested.

Building on this distinction, the paper argues that the political transformation in Poland after 1989 provided a crucial setting in which legal epistemic authority was not merely recognized but actively produced. In the context of systemic change, lawyers and legal institutions positioned themselves as

indispensable interpreters of the "rule of law," presenting legal knowledge as highly technical, specialized, and inaccessible to non-experts. This framing effectively insulated legal discourse from broader democratic participation, as questions of constitutionalism, legality, and institutional design were increasingly treated as matters of professional competence rather than public deliberation. At the same time, this legal epistemic authority did not develop in isolation. It coexisted and at times competed with other forms of expertise, most notably economic authority during the implementation of market reforms associated with figures such as Leszek Balcerowicz. In this period, both legal and economic discourses shared a technocratic orientation that prioritized efficiency, stability, and systemic coherence over democratic contestation. However, while economic authority was often openly political in its consequences, legal authority maintained an image of neutrality and objectivity, thereby reinforcing its legitimacy.

The paper traces how this configuration gradually evolved into a form of epistemic closure. Legal reasoning, especially in constitutional adjudication, increasingly relied on internally generated standards and abstract balancing techniques that obscured underlying conflicts of values. This tendency is exemplified in key rulings of the Polish Constitutional Tribunal, where the language of legal necessity and doctrinal coherence displaced the need for publicly accessible justification. The culmination of this trajectory can be observed in the Tribunal's abortion judgments, including the 1997 decision and the 2020 ruling, which significantly restricted abortion rights. These cases illustrate how legal epistemic authority, once grounded in the promise of safeguarding the rule of law, can assume an anti-democratic character when it becomes detached from broader processes of public reasoning. Rather than mediating between competing perspectives within a pluralist society, the Tribunal asserted a form of interpretive supremacy that effectively excluded alternative viewpoints.

By situating legal epistemic authority within its socio-political context, the paper challenges the assumption that expertise in law is inherently compatible with democratic governance. It suggests instead that the legitimacy of legal authority depends not only on its technical competence but also on its capacity to remain open to contestation, translation, and public justification. In this sense, the Polish case offers a critical perspective on the broader relationship between law, expertise, and democracy in periods of political transformation.

Michał Pazdziora is an Assistant Professor at the Faculty of Law, Administration and Economics, University of Wrocław. He is the principal investigator of two research projects funded by the National Science Centre Poland: Experience and the Community of Sense: On the Aesthetic Foundations of Validation in Contemporary Philosophy of Law and Legal Epistemic Authority in Poland: Development and Dynamics 1982–2020. His research focuses on judgment, legal epistemic authority, and the ways in which legal knowledge is constructed and justified in practice. He is currently developing the concept of Little Jurisprudence, which examines how singular experiences and particular cases become sources of normative validity and shared standards of reasoning.

HOW AND WHY EVALUATE THE QUALITY OF CONSTITUTIONAL LEGAL RESEARCH?

In our presentation, we offer several key remarks on the evaluation of the quality of constitutional legal scholarship. First, we distinguish the quantitative evaluative approaches (specifically not only common, i.e., database metrics, but also alternative, e.g., syllabus or court citations, media coverage) from qualitative assessment(i.e., reading and evaluating the content of the research itself). Second, we juxtapose the pros and cons of both categories of approaches and conclude our main argument that objectivity of evaluation is impossible, because a certain amount of bias will always be present in any form of research evaluation in the field of constitutional scholarship. However, as different forms of evaluation correspond to different kinds of biases, we propose a mixed-method approach that ought to mitigate the dangers stemming from each form of evaluation

if executed separately. Concerning the quantitative approaches, we argue that a proper balance between the more "market-like" and more "meritocratic" forms of the evaluation needs to be struck. As for the qualitative approaches, we built our proposal on integrity as a core principle of academia. We further categorize this principle into three interconnected parts: (1) researcher's integrity, (2) research integrity and (3) reporting integrity. Researcher's integrity reflects not only the ethical concerns (such as the participation of constitutional scholars in legal practice as judges, attorneys, advisors to political entities, etc.) but also the understanding of positionality of researchers towards their research agendas. Research integrity includes a clear and transparent identification of research gaps, formulation of aims and research questions and selection of adequate methodological approaches. Reporting integrity contains rules that are common for all cultural specifics of constitutional legal scholarship (such as clarity of the text, logical structure of the arguments, addressing counterarguments and avoiding overstatements and other argumentative fouls) and also specific rules applied in different academic approaches, communities and journals. Finally, we problematize overusing research quality evaluations as financial incentives for individual researchers.

Filip Horák is an Assistant Professor at the Department of Constitutional Law at Charles University. He is currently a principal investigator of a project funded by the Czech National Grant Agency titled: "Overlooked Elements of the Proportionality Test: A Theoretical and Empirical Framework for Judicial Review of Appropriateness and Legitimate Purpose."

Gor Vartazaryan is a PhD candidate at the Department of Constitutional Law at Charles University and also an MPhil student in Socio-legal research at Oxford University. They have both contributed to the special issue on legal methodology reflecting on the recent debates in Czech academia on legal research, ethics and quality of research.

THE EXCELLENCE *DISPOSITIF*: GOVERNING SCARCITY THROUGH RESEARCH EVALUATION IN POST-SOCIALIST POLAND

Research evaluation often presents itself as accountability, a way of making scholarship answerable to standards of quality that transcend political interest. The opposite can be true. Under the right historical conditions, evaluation mechanisms function primarily to make political choices about resource distribution unanswerable, encoding them as the natural output of scientific judgment. In doing so, they quietly redraw the boundaries of what counts as legitimate scholarship, not through open contestation, but through the prior constitution of what can be judged at all. Drawing on a genealogical analysis of science policy in post-socialist Poland, this paper reconstructs a sequence with broader implications. Poland's new science funding body introduced explicitly "Darwinian" competition from the outset: rankings concentrated resources in the top institutions on the premise that selective pressure would restructure the research landscape. But the fiscal crisis proved so severe that even the designated winners found themselves operating under conditions of chronic scarcity. The apparatus designed to identify excellence was running in a system structurally incapable of sustaining it. It was in response to this ungovernable situation that the excellence dispositif progressively assembled itself: heterogeneously, under pressure, drawing together the rhetoric of scientific quality, institutional mechanisms of evaluation and allocation, and the gradual internalisation of competitive norms by researchers who reproduced its logic as a condition of survival rather than an expression of ambition. The result was "cheap modernisation": a governing rationality that promises systemic improvement through competition and measurement while foreclosing the question of whether adequate public investment is a precondition for the improvements it promises. The cost fell unevenly across forms of scholarship. Nationally oriented, and locally embedded scholarship above all, was not weighed and found insufficient. It was rendered categorically illegible, because the evaluative vocabulary had no concept under which to register it. This is a subtler and more durable form of exclusion than explicit devaluation: it operates not through judgment but through the prior constitution of what can be judged. What the Polish

case makes visible is that the authority of an evaluation apparatus rests not on the quality it produces but on the unresolved political problem it was called upon to govern without naming it. Understanding that dynamic is a precondition for any serious account of how scholarly autonomy, accountability, and power relate to one another — and of what is silently at stake when evaluation frameworks define the boundaries of legitimate scholarship.

Jakub Krzeski, PhD, is an Assistant Professor in the Department of Philosophy and Social Sciences at Nicolaus Copernicus University and a collaborating researcher with the Scholarly Communication Research Group (SCRG). His research intersects the philosophy of science, critical theory, and social studies of science. He is particularly interested in the capitalist structuralization of science, with a focus on the capitalist production of academic subjectivity. Currently, he leads the SCRG team in the international project "Predatory publishing practices: Paper tigers or actual threats from evaluation systems?" - a collaborative effort with the DZHW, Humboldt University, and the University of Porto. He is also involved in SCRG's ongoing projects regarding the "shock therapy" and capitalist transition of the 1990s in Polish science, with a focus on "research excellence" as a hegemonic discourse responsible for reengineering the Polish science system.

EVALUATING DOCTRINAL LEGAL SCHOLARSHIP: ABOUT THE GOOD, THE BAD, AND THE UGLY

In my presentation I want to discuss a fundamental problem that seems to have complicated the evaluation of academic legal research around the globe and certainly in Europe. Quality assessment always presupposes "a standard of something as measured against other things of a similar kind to serve a particular purpose". This causes multiple problems for legal research because it is doubtful to what extent doctrinal, empirical, comparative, and other types of legal research are sufficiently similar to be evaluated according to the same quality indicators, especially when it comes to methodological justification. Moreover, the does not seem to be consensus regarding the purpose of legal research: is legal knowledge production a goal in and of itself or should it, first and foremost, be seen as a service to legal practice? These and other questions may look simple at first sight, but law schools train students first of all to become legal practitioners instead. The research these practitioners undertake is often focused on learning "the art of persuasion" and "winning debates". However, this may stand in sharp contrast to what is expected from academic research that is supposed to engage in truth-seeking. Combine this with the fact that especially doctrinal legal research is lacking a tradition of making its implicit methodologies explicit, and one must realize how vulnerable this makes legal scholars, particularly when they have received no other training than most traditional law school curricula have to offer.

Rob van Gestel (1966) is professor of theory and methods of regulation at Tilburg University (The Netherlands) and professor of methods of legal research at Leuven University (Belgium). In 2007 he established the first European research group on Methodology of Law and Legal Research in Europe, in which academics studied methods of judicial lawmaking, methods of legislation and regulation and methods of academic legal research. Currently he leads a five-year comparative and empirical research project, funded by the national research foundation, on the legitimacy of methods of judicial lawmaking in public interest litigation cases in The Netherlands, United States, South Africa, and India. In the past he published on various topic related to quality and methodology of legal research, including topics such as ranking of law journals, peer review, and bibliometric evaluation of academic legal publications. He combined this research on quality assessment with closely related topics regarding scholarly independence, impartiality, and academic integrity.

MISS OR HIT TO DESTINATION UNKNOWN: THE PERENNIAL SEARCH FOR (AN IDEAL) SYSTEM OF FUNDING LEGAL SCHOLARSHIP IN CZECHIA

Everyone in the academic legal community agrees that it is necessary to cultivate high-quality legal scholarship that advances knowledge and delivers societal impact. Almost everyone agrees that it is necessary to (independently) evaluate which outputs of legal scholarship meet these criteria. Most agree that results of such evaluation should be reflected in the allocation of (public) research funding. Almost no one agrees on how to define high quality legal scholarship, and even less on fair rules of funding. Yet every legal academic claims to produce excellent scholarship and thus deserves above standard financial compensation.

Every system of evaluation and funding of legal research in principle faces these contradicting premises. In post-communist countries, everything is further complicated by the overall low volume of research funding and the resulting imbalance in the remuneration of legal academics compared to other legal professions.

My contribution reflects "tests" the presented framework on the development of the system of evaluation and funding of legal scholarship in Czechia. It analyzes setting of the rules and their impacts at the national, university, and faculty levels. Law struggles to cope with the bibliometrization of science driven by STEM disciplines, but it has lagged significantly even behind other social sciences or humanities. However the main cleavages arise within the discipline itself, with clashes between camps prioritizing national versus international impact of legal scholarship, supporters of doctrinal versus empirical approaches, or "pure" versus practicing academics. The lack of consensus creates a dangerous cocktail in which almost all legal scholars criticize (or ignore) the existing system, without offering a more generally acceptable alternative. This outcome unfortunately only reinforces isolation of legal scholarship from other disciplines, fuelling a vicious circle of deepening perceived disadvantage and frustration.

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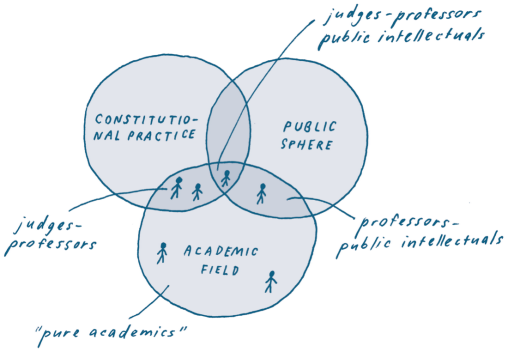
CONSTITUTIONAL SCHOLARS AS A "DIFFUSE BRANCH"?

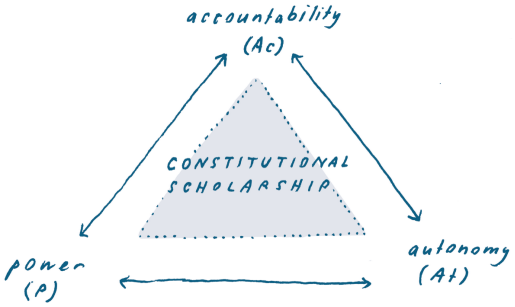
The title of the project – "IMPURE" - is a deliberative provocation. In 1934, Hans Kelsen's Pure Theory of Law attempted to construct a legal science insulated from the "contaminations" of politics and sociology. Yet, this quest for purity proved structurally defenseless against the rise of authoritarianism, as demonstrated by the ease with which Kelsen's rival, Carl Schmitt, weaponized legal scholarship to legitimize the Third Reich. Today, as constitutional democracy faces renewed threats—from the populist resurgence in the United States to democratic backsliding across Europe—this dynamic re-emerges with a vengeance. Legal scholars are not neutral observers; they provide the intellectual architecture for both the preservation and the dismantling of the rule of law.

While the "political" nature of legal expertise has been deconstructed a long time ago, these critiques have largely remained at the level of discursive analysis or personal ideology. They have successfully unmasked the scholar as a political actor but have failed to map the institutional and material pathways through which academic authority is converted into public power. Current debates on "scholactivism" reduce these systemic issues to personal ethics, while legal defenses of academic

freedom frame scholars primarily as victims of state interference. Both perspectives miss the deeper structural reality: constitutional scholars wield significant power over the state, yet we lack a scientific understanding of how that power operates.

IMPURE proposes a new conceptual model that treats constitutional scholarship as a "Diffuse Branch" of government. It has no formal hierarchy or constitutional text, yet it operates as a potent infrastructure of power across three interconnected fields: the academic field, where "legitimate" interpretations are forged; the political-juridical field, where theories shape judicial and legislative outcomes; and the public sphere, where scholars act as arbiters of constitutional legitimacy. This layered analysis distinguishes IMPURE from the recent attempts by constitutional scholars to conceptualize various versions of a "fourth branch".





Furthermore, by integrating legal theory with Sociology and Science & Technology Studies (STS), the project moves beyond the "hermeneutics of suspicion" to provide a structural account of the legal academy. The analytical framework centers on a triad of Power, Autonomy, and Accountability. First, it maps the "symbolic power" of legal concepts as they travel from journals to courtrooms. Second, it examines how "academic freedom" is mediated by academic capitalism—the metrics, rankings, and funding pressures that shape the production of truth. Finally, it interrogates whether internal accountability mechanisms, such as peer review, are adequate in an era of truth decay and political polarization.

Ultimately, IMPURE offers a new normative account of the role of legal experts in a democracy. By revealing the hidden mechanisms through which scholarship sustains or undermines the democratic order, the project provides the tools necessary to distinguish legitimate legal science from the strategic capture of expertise by illiberal movements.

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