

# Rule of Law from Below

## Individuals and Civil Society as Protectors of the Rule of Law in Troubled Times

### Call for Papers

Across the world, global challenges such as armed conflict, climate change, and the rise of illiberal practices are putting the rule of law under pressure in different and sometimes contradictory ways. On the one hand, States today seem more dominant than ever before with a rise in nationalism, authoritarian leaders, and a shrinking civic space all over the globe. On the other hand, a multitude of forces are causing private actors, ranging from businesses to armed groups, to fill spaces and carry out roles where the State used to dominate. Both circumstances often result in the erosion of rule of law principles. Rule of law principles provide, amongst other things, that laws are clear and applied fairly; that everyone is accountable under the law; and that fundamental rights will be protected. From a multitude of directions, it seems as if the rule of law is being put at risk, causing a threat to its underlying values and a decline of democratic systems.

Out of this complexity, people acting individually or in groups as civil society are increasingly finding innovative ways to support the rule of law. For example, they are standing up to authoritarian regimes, using technology to document violations of the fundamental legal norms and holding individuals in positions of power to account, taking on leadership roles within their communities in armed conflict, and asserting their power to enforce international obligations or the values underlying the rule of law, by means of collective action, litigation, or advocacy. The relationship between individuals and groups of people vis-à-vis the system of the rule of law, as it exists at the local, national, and international level, has been under-explored in international law. Traditionally, attention has tended to centre on States and international organisations as the primary entities responsible for its protection.

On **29 October 2020**, Utrecht University's Montaigne Centre for the Rule of Law and Administration of Justice, together with the Netherlands Institute of Human Rights (SIM), will host a conference that shifts the focus to the role of individuals and civil society in responding to threats to the rule of law. The purpose of the conference is to investigate the different ways in which individuals can be protectors and defenders of the rule of law, and also explore whether attention to this perspective may influence how the rule of law is defined and understood by States and other international actors. A follow up session will be held in the morning of 30 October to brainstorm potential new publications or research projects.

We invite scholars and practitioners working in this area to submit abstracts of maximum 400 words and bios of 300 words (in Word format) to [Montaignecentrum@uu.nl](mailto:Montaignecentrum@uu.nl) by **15 March 2020**. Selected panelists will be notified in April, with final papers of maximum 10.000 words, including footnotes, due by 1 October 2020. The aim is to publish a select number of articles in a special issue of an international legal journal. Papers to be considered should present an original contribution and be unpublished. Papers may be co-

authored. Authors are requested to indicate which of the following four themes (the conference panels) their abstract relates to:

**1. The role of the civil society and civic space supporting the rule of law**

Collective citizens' activities face pressure globally, whether it is demonstrations by social movements in the streets or the work of non-governmental organisations: civic space is under pressure. By holding authorities to account, uncovering corruption, claiming social justice and litigating in courts, civil society plays a crucial role in upholding the rule of law. It is clear that the rule of law should protect such work, but how does it work the other way around? What effects do the activities of civil society, organised or not, have on the rule of law? Which particular features of the rule of law are strengthened by civil society and in which ways?

**2. The role of religious/traditional groups in promoting the values underlying the rule of law**

While the State is at the centre of public international law and the primary duty bearer in human rights, private actors have long been implicated by and dedicated to their underlying values. Human rights in fact notes its origins in the many religions and philosophies of the world. Given contemporary factors including globalisation, privatisation, and the rise of religiosity, private actors are increasingly important in today's society, and the role of the State is both changing and diminishing. What role can and should private actors, like religious groups and community collectives, play in promoting the rule of law and human rights? How does this impact upon the role and function of the State, and upon the international legal framework?

**3. The role of civilians and community leaders in protecting the rule of law in armed conflict**

In recent and ongoing non-international armed conflicts, civilian communities have played active roles in securing their own protection by, for example, organising governance initiatives in areas where the *de jure* government is absent, negotiating with armed actors and forming committees and structures to assist civilians in need e.g. white helmets. To what extent does the international humanitarian law or human rights law framework address civilian volunteerism in non-international armed conflicts? To what extent do civilians living outside the control of the *de jure* government remain subject to the rule of law – and how should that rule of law be understood and measured? What are the risks for local entities taking on the role of protectors of the rule of law and should third States support these initiatives?

**4. The role of civil society in documenting serious human rights violations and protecting the rule of law through ensuring accountability**

From interviewing and advocating for survivors to leading forensic exhumations to building criminal case files against specific individuals, civil society is often at the forefront of accountability efforts, protecting, defending, and leveraging the rule of law. Recently, new technology and new networks of support have propelled these efforts in unprecedented ways. In what ways has technology changed the work of civil society in bringing about accountability? How are civil society actors engaging in new ways with institutions involved with accountability? What are the risks associated civil society actors playing a greater role in criminal investigations and filling in spaces previously occupied only by states or international bodies?

*Please note that because of limited funding we cannot cover travel or accommodation costs of selected panelists.*

The conveners of the conference are SIM researchers and Montaigne Centre members: Antoine Buyse, Julie Fraser, Katharine Fortin, Brianne McGonigle Leyh and Nelleke Koffeman.