

The Nordic CONREASON Project: Is there any distinctively Nordic in how judges reason in constitutional matters?

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WHAT?

Mapping constitutional reasoning in the Nordic countries. The project systematically documents the argumentative practice of the supreme courts of **Sweden, Denmark, Iceland, Finland and Norway** in their leading constitutional cases. **How do Nordic judges argue** and which key concepts do they use when they answer difficult constitutional questions?

WHY?

Judges are and shall be independent, but we expect them to make **good and fair decisions**. Good judicial decisions are **sound and well-reasoned**. But there is no handbook of interpretation attached to the legal sources. It is the job of legal scholars to establish standards on which we can measure the judges and their decisions. It is a soft way of controlling their power.

The **rise of judicial power** has been a **global trend** in the last three decades. Courts play an increasingly larger role in defining the direction, shape and content of political decisions in many countries. To what extent do the Nordic supreme courts fit into this trend?

HOW?

With **empirical methods**, by encoding 50 variables for the 40 leading constitutional cases of each examined court. => 7 supreme courts = 280 cases.

We look for 15 types of arguments and 20 key constitutional concepts (such as democracy, equality, secularism, sovereignty, and so on) in the judgments and analyze the structure of the court's argumentation.

WHAT CAN WE DISCOVER?

Many hypotheses may be tested on the empirical data obtained. These are **assumptions that have been commonly accepted** among legal scholars, **but they have not been proved to be true** with large comparative empirical data.

A few examples:

- Nordic judges increasingly use rights rhetoric in their decisions.
- Nordic judges are becoming more activist.
- The incorporation of the European Convention on Human Rights in the 1990s brought to a turn in constitutional reasoning in the Nordic countries.
- Compared with other courts in the world, the Nordic Supreme Courts rely more on certain types of sources, such as preparatory works of legislation.

We also expect that when it comes to constitutional issues, Nordic countries are less similar to each other than many assume.



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WHO?

A research team composed of **7 researchers**, including one constitutional scholar from each of the five examined Nordic countries, the principal investigator coordinating the work and responsible for the final comparative analyses, and a statistician. The team is also helped by **an international Advisory Board**, composed of 6 eminent legal scholars.

WHEN?

The project started in September 2021 and is planned to be concluded in August 2024.

For more details about the project

See the project's website:
<http://www.oru.se/nordic-conreason>

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