

# CONFERENCE “LAW, CRISIS AND SHIFTING DEMOCRATIC ORDER” (University of Geneva, 8-9 September 2025)

*In partnership with the Global Centre for Democratic Constitutionalism (GCDC) and Faculty of Laws of  
University College London (UCL)*



**Venue:** Global Studies Institute (GSI), Rue des Vieux-Grenadiers 10, 1205 Geneva

**Organizer:** Mrs Jana Ruwayha (UNIGE)



## DAY 1 – MONDAY, 8 SEPTEMBER 2025

9:00 – 10:00 | Welcome Coffee and Opening Remarks

**Opening speech by Mrs Jana Ruwayha (organizer, UNIGE)**



*Mrs Jana Ruwayha giving her opening speech*

Mrs. Ruwayha opened the conference by warmly welcoming all participants and thanking them for attending. She explained that the workshop grew out of her recent League of European Research Universities (LERU) doctoral exchange at University College London, where Professor Ewan Smith supervised her, and from a desire to sustain the collaborative conversations she began in London.

She described the two-day programme. On the first day participants would discuss complexity and systemic shocks and their effects on legal orders, crisis rhetoric and the rule of law, and the interaction between emergency frameworks and the climate crisis. On the second day, panels would address federalism, democratic erosion, and questions of accountability ranging from housing rights to national security. The conference would close with a roundtable focused on synthesis, resilience, and next steps, including plans for joint publications.

Mrs. Ruwayha shared that her aim was not only to sharpen academic analysis but also to generate practical ideas for governing that preserve democratic resilience, increase adaptability, and protect shared values. She expressed deep gratitude to key supporters such as Chris Adams from the Global Centre for Democratic Constitutionalism (GCDC) at UCL for his help, Professors Ewan Smith (UCL) and Nicolas Levrat (UNIGE) for their guidance, and Mrs Roswitha Zahler from the GSI for her organisational support. She concluded by thanking the sponsoring institutions, notably the Faculty of Law at UNIGE, the Geneva Transformative Governance Lab (GTGLab) at the GSI, and the GCDC.

## **Opening speech by Prof. Nicolas Levrat (UNIGE)**



*Prof. Nicolas Levrat (UNIGE) giving his opening speech*

Professor Nicolas Levrat opened his remarks by underlining the importance of the conference as a milestone in strengthening the relationship between the University of Geneva and University College London, notably within the framework of the League of European Research Universities (LERU) exchange program. Speaking in his capacity as Mrs. Ruwayha's thesis supervisor, he emphasized the relevance of the conference theme for her doctoral research and the importance of nurturing rigorous academic inquiry on issues of such high political salience. As a professor at the University of Geneva and the Global Studies Institute, he highlighted how the discussions would contribute to advancing scholarship on democratic resilience and the rule of law. In his role as the current UN Special Rapporteur on Minority Issues, he stressed the global significance of the theme, noting that the challenges addressed are urgent and directly connected to the protection of fundamental rights. He concluded by observing that the event exemplified both academic excellence and a shared responsibility to understand and respond to transformations in democratic governance during times of crisis.



*Prof. Nicolas Levrat (UNIGE) giving his opening speech*

### **Opening speech by Prof. Ewan Smith (UCL)**

Professor Ewan Smith delivered his opening speech in French, emphasizing the timeliness and significance of the conference theme, “Law, Crisis and Shifting Democratic Orders.” He highlighted how pressing the challenges discussed are for both academic research and the broader understanding of democratic governance in times of crisis. During his remarks, he noted his appreciation for Mrs. Jana Ruwayha’s evident motivation and ambition, expressing his enthusiasm to continue collaborating with her in her ongoing research. His speech underscored the value of fostering strong academic partnerships and reinforced the collective responsibility of scholars to address the evolving challenges to democracy worldwide.





*Prof. Ewan Smith (UCL) giving his opening speech*

## **10:00 – 12:00 | SESSION I: COMPLEXITY, CRISIS AND EVOLVING LEGAL ORDERS (Moderator: Prof. Colm O’Cinneide, UCL)**



*Speakers of the Panel I; from left to right: Jana Ruwayha, Flore Vanackère, Didier Wernli*

The first panel of the conference explored how contemporary crises reshape legal systems in structural rather than episodic ways. Prof. Didier Wernli examined the vulnerabilities of global knowledge systems in the face of civilizational traps. Then, Mrs Jana Ruwayha analyzed the normalization of emergency powers in liberal

democracies through U.S. case studies and complexity theory. Finally, Dr. Flore Vanackère discussed how Europe's legal orders learn and clash under crisis pressures. Together, the panel highlighted how crisis governance generates feedback loops, institutional path-dependencies, and normative dilemmas, raising urgent questions about resilience, adaptation, and the risks of democratic erosion.



*From left to right: Eve Lister, Colm O’Cinneide, Nicolas Levrat, Flore Vanackère, Jana Ruwayha, Didier Wernli, Ewan Smith, Kevin James*

## **Didier Wernli (UNIGE): “Knowledge Systems and the Global Civilisational Trap”**

In his thought-provoking presentation, Prof. Didier Wernli (University of Geneva) explored how global knowledge systems confront the unprecedented challenges of what he terms the “civilisational trap.” He argued that humanity now faces a convergence of crises—climate change, technological disruption, pandemics, geopolitical conflict—that are not isolated but deeply interconnected, creating systemic risks that exceed the capacity of traditional governance models.

Prof. Wernli emphasized that the way knowledge is produced, shared, and applied plays a central role in shaping societies’ ability to navigate these risks. He highlighted three dimensions of the challenge. First, the accelerating pace of technological and scientific advancement generates profound uncertainties and normative



dilemmas, as with artificial intelligence or biotechnology. Second, fragmented knowledge governance—across states, disciplines, and institutions—limits the ability to build coherent, collective responses to global threats. Third, entrenched path-dependencies and vested interests risk locking humanity into unsustainable trajectories, even when better alternatives are visible.

Drawing on complexity theory, he proposed that knowledge systems must evolve toward greater reflexivity, inclusiveness, and adaptability. Reflexivity requires acknowledging uncertainty and anticipating unintended consequences. Inclusiveness means integrating diverse perspectives, especially from marginalized regions and communities, into global decision-making. Adaptability entails developing institutional mechanisms that allow rapid learning, experimentation, and correction in the face of uncertainty.

By situating the “civilisational trap” as both a challenge and an opportunity, Prof. Wernli underscored that crises can catalyze learning and innovation if governance frameworks are reconfigured. His intervention complemented the panel’s broader theme of crisis and complexity by showing how systemic risks require systemic knowledge responses. He concluded that building resilient knowledge systems is indispensable for sustaining democracy and human flourishing in an age of global interdependence.



*Didier Wernli giving his presentation; from left to right: Eve Lister, Colm O’Cinneide, Nicolas Levrat, Flore Vanackère, Jana Ruwayha, Didier Wernli, Ewan Smith*

## **Jana Ruwayha (UNIGE): “Normalization of Emergency Powers in Liberal Democracies: A Case Study of Democratic Backsliding in the USA”**



*Jana Ruwayha giving her presentation*

In her sharp presentation, Mrs Jana Ruwayha argued that the gradual embedding of emergency powers into ordinary governance is a central mechanism of democratic backsliding in liberal states, using the United States as a paradigmatic case. Combining doctrinal analysis with Complex Adaptive Systems (CAS) theory, she traced how crises evolve into enduring governance modes through feedback loops, routinization, and executive rhetoric.

She challenged the classical paradigm that views emergencies as temporary deviations from normal law. Drawing on examples from Civil War suspensions of habeas corpus, the 1863 Habeas Corpus Suspension Act, and the post-9/11 framework, she showed how exceptional measures are quickly enacted by executives and later normalized through legislative ratification and administrative practice. The Authorization for Use of Military Force, Guantánamo detentions, and the Military Commissions Act exemplify this trajectory.



Using CAS concepts such as feedback loops and hysteresis, Mrs Ruwayha explained why systems rarely revert to pre-crisis equilibrium. Successive invocations lower barriers to reuse, while rhetoric frames measures as existential, discouraging rollback and recasting judicial scrutiny as obstructionist. Contemporary triggers reinforce this trend: January 6, 2021 normalized expansive executive responses; COVID-19 institutionalized health surveillance and mobility restrictions; and the 2025 Alien Enemies Act revival justified mass deportations too rapid for courts to halt.

She underscored courts' limits: even where rulings constrain executive excess, implementation gaps and political framing often blunt their effect, producing entrenched practices. This path-dependence creates hysteresis, where rollback becomes obstructed.

Normatively, Mrs. Ruwayha called for institutional redesign – narrow delegations, transparency, sunset clauses, and effective oversight – alongside civic participation and accountability mechanisms to rebuild resilience. Resilience, she stressed, is not mere recovery but adaptive capacity that preserves democratic substance during crises.

Her intervention, in Session I complemented Prof. Wernli's analysis of knowledge systems and Dr. Vanackère's complexity reading of Europe's legal architecture. Collectively, the panel showed how crises structurally reconfigure legal orders and illuminated conditions under which democracies either adapt resiliently or drift into permanent exceptionality.



*Jana Ruwayha giving her presentation; from left to right: Eve Lister, Colm O'Cinneide, Flore Vanackère, Jana Ruwayha, Didier Wernli, Ewan Smith, Kevin James*

## **Dr. Flore L. Vanackère (UNIGE) : “From Crisis to Complexity: How Europe's Legal Systems Learn (and Clash)”**



*From left to right: Jana Ruwayha, Flore Vanackère*

In her talk, Dr. Flore Vanackère shifted from “crisis talk” to a complex adaptive systems (CAS) lens to read Europe’s legal order. This approach models the European Union and the Council of Europe as interacting systems whose judicial sub-systems react and learn under slow or sudden pressure. The CAS toolkit – identity, attractors, rules of motion, patchiness, and coupling – helps track how procedures carry signals, how doctrines stabilise, and when adaptation touches core commitments. use perturbation, not “permanent emergency,” to identify stress: we ask which rules changed, which attractors shifted, which identity elements were touched. She argued that the EU judicial sub-system’s identity is characterized by effective judicial protection, as anchored in Article 19(1) TEU and Article 47 of the Charter. From this flow non-negotiables: access to a judge, judicial independence, reason-giving proportionality review, and the integrity of the Article 267 preliminary-reference loop. The Polish judicial reform “saga” illustrates a chronic, high-amplitude perturbation: the EU combined “engineering resilience” (infringements, interim measures, financial penalties) with “ecological resilience” (reparametrizing standards through case law) to defend loop integrity and independence. The whole system also responded to that perturbation by activating the rigid tool of Article 7 TEU and by creating an original, “ecological resilience-designed” conditionality mechanism. On the Strasbourg side, she considered internal pushback and how the ECtHR’s sub-system adapts while preserving its identity. She then mapped coupling points between the two systems. In the *Povse* judgments, tight coupling emerges: near-automatic EU enforcement plus Bosphorus deference. In the Belgian ritual-slaughter line, both courts converge while following different attractors. In *M.S.S.*, we see a decoupling point where non-refoulement constrains near-automatic Dublin transfers.



In sum, she argued that we observe a patchy but increasingly coordinated adjudicatory space: a pan-European judicial complex adaptive system, that achieves resilience by interface when coupling is well-designed.

## 12:00 – 14:00 | Lunch at the University of Geneva



*Cake celebrating the collaboration between UNIGE and UCL; from left to right: Ewan Smith, Jana Ruwayha, Nicolas Levrat*



*Cake celebrating the collaboration between UNIGE and UCL; from left to right: Ewan Smith, Jana Ruwayha*

## **14:00 – 16:00 | Session II: CRISIS RHETORIC AND RULE OF LAW EROSION (Moderator: Prof. Nesa Zimmermann, UNINE)**

This session explored how the language of crisis reshapes constitutional orders and erodes the rule of law. Prof. Nicolas Levrat argued that liberal democracies and the rule-based international system are interdependent, with domestic rule of law underpinning global stability. He showed how Europe's two-way linkage, particularly within the EU, offers greater resilience than one-way systems, though it remains exposed to illiberal pressures. James Milton examined how crisis rhetoric corrodes the “soft matter” of the rule of law, undermining trust in institutions by portraying judges as incompetent or biased. Drawing on examples from Hungary, Mexico, the UK, and the U.S., he stressed how public attacks by leaders like Donald Trump weaken assurances that the rule of law will endure. Prof. Colm O'Cinneide highlighted how constitutional erosion



often proceeds through crisis language that legitimizes rolling back supranational checks, especially on migration, and urged candid engagement with contested values to safeguard equality and democracy.

### **Prof. Nicolas Levrat (UNIGE): “Understanding the connections between liberal democracies and a rule-based international system”**

Prof. Nicolas Levrat argued that the fate of liberal democracies and the rule-based international system (RBIS) are closely connected, and that this link is mediated by the principle of the rule of law. His paper begins with the observation that since the return of Donald Trump to power, both the internal foundations of U.S. democracy and the stability of the international order have been shaken. He asks whether this simultaneity is accidental or systemic and concludes that the connection between liberal democracies and international rule-based system(s) exists. The international order depends on robust domestic rule of law, as there is no International Rule of Law built-in international law; therefore, effective respect of international law may only be guaranteed by a strong rule of law based domestic legal order, which only exists in genuine liberal democracies. Reciprocity in economic law and subsidiarity in human rights protection illustrate how these connections operate.

He retraces the development of the post-1945 order. International law banned the use of force to settle disputes; as a consequence, treaties-based regimes and dispute settlement mechanisms had to be developed. Yet, a fully autonomous international rule of law never emerged, compelling implementation to rely on implementation mechanisms within domestic systems. The strength of the international order has therefore depended on the health of national rule of law. Explicit linkages have been attempted mainly in Europe. The Council of Europe and later the EU established systems where membership into a bounded rule based international (European) system requires respect for the rule of law and where violations can be sanctioned. The European Union developed a two-way linkage in which European law depends on domestic enforcement while domestic systems are bound by supranational oversight. This produces more resilience than one-way systems.

Prof. Levrat warns that when only unilateral connections exist, both levels are vulnerable. If liberal democracies erode, the international system weakens. If the international system collapses, liberal democracies are drawn, to guarantee their existence, into a state of potentially permanent emergency, in which freedoms and guarantees of due process deteriorate. He concludes that the European Union offers the most robust model to resist democratic backsliding, although even this system is strained by illiberal actors within.



*Nicolas Levrat giving his presentation; from left to right: Flore Vanackère, Eve Lister, Didier Wernli, James Milton, Colm O'Connell, Nicolas Levrat, Nesa Zimmermann, Ewan Smith, Kevin James*

## **James Milton (UCL): “Rhetoric of Crisis and the Erosion of Rule of Law Expectations”**

James Milton argued that the rhetoric of crisis can erode the rule of law by undermining expectations about its future practice. His central claim is that the rule of law is not only about historic and current compliance, but also about the assurances that it will continue to be observed in the future. Citizens enjoy stability and respect as members of a political community only if they can trust that legal institutions will uphold the rule of law in the years ahead.

He explained that rhetorical attacks by public officials, particularly on the judiciary, weaken what he calls the “soft matter” of the rule of law. This soft matter consists of norms, informal practices, and expectations about the competence and integrity of officials. When leaders describe judges as incompetent or biased, or depict courts as enemies of the people, they corrode public trust in the judiciary’s capacity to apply rules faithfully. The damage is not always direct or immediate, but it reduces confidence that institutions will cooperate in sustaining the rule of law.



Drawing on Gerald Postema's work on fidelity to legal norms, he showed that the resilience of the rule of law depends on maintaining these expectations. He gave examples from Hungary, Mexico, the United Kingdom, and especially the United States. Donald Trump's repeated attacks on judges and his use of executive instruments to defy or bypass court orders illustrate how rhetoric, coupled with institutional power, undermines both judicial independence and the perception of stability.

Milton further engaged with David Dyzenhaus's idea of judges as "weather forecasters." He argued that judges play a crucial role in alerting society to threats against the rule of law. Yet their ability to play this role depends on external respect for judicial independence. The paper concludes that rhetoric of crisis, when normalised, corrodes the very assurances that make the rule of law meaningful in practice.



*James Milton giving his speech*

### **Prof. Colm O'Cinneide (UCL) "Rule of Law for Me, But Not for You: Constitutional Decay and Status Equality"**

Prof. Colm O'Cinneide's presentation diagnosed contemporary constitutional erosion as a transnational phenomenon that shares common features across different legal orders. He argued that the mid-20th-century model of liberal constitutionalism – rooted in an overlapping consensus supporting separation of powers, multilayered federalism, and legally protected fundamental rights – is being contested by political movements that invoke crisis language to justify more direct, majoritarian governance. Such rhetoric frames public life as

a struggle between insurgency and entropy, legitimizing demands to roll back “alien” constraints imposed by courts, regional bodies, or supranational law.

O’Cinneide traced how this contestation often takes the form of *decoupling*: calls to restore supposedly authentic constitutional practices that reject post-1945 cosmopolitan checks (for example, on the status of the ECHR or EU law within domestic hierarchies). He identified migration control as a particularly acute site of tension, where universalist human-rights norms collide with delegations to sovereign states to adopt restrictive policies, evoking debates in the work of Arendt and Agamben about emergency, exclusion, and sovereignty.

Crucially, he rejected a simplistic “for or against” account of the rule of law. Instead, he emphasized that challengers frequently frame their project as a recovery of legitimate constitutional values rather than an assault on legality per se. This complicates doctrinal responses and requires honest engagement with underlying value conflicts.

O’Cinneide concluded with a normative challenge to the legal profession: responding to erosion will demand difficult, explicit conversations about values, institutional design, and the scope of constitutional obligation. Lawyers and scholars must grapple with who counts in the constitutional “we” and what duties the polity owes to non-citizens, future generations, and other marginalized groups. Only by confronting these substantive questions can plural, collaborative constitutional arrangements be devised to defend status equality and the civic foundations of liberal democracy.



Colm O’Cinneide giving his presentation



**16:00 – 17:30 | SESSION III: DISTINGUISHING EMERGENCIES AND EXCEPTIONS: FROM CONSTITUTIONAL THEORY TO CLIMATE CRISIS (Moderator: Prof. Frédéric Bernard, UNIGE)**



*Speakers of Panel III: Ginevra Le Moli (online), and Ewan Smith, with moderator Frédéric Bernard*

## **Prof. Ewan Smith (UCL): “The Emergency and the Exception in Theory and Practice”**

Prof. Ewan Smith argued that in order to understand emergencies and exceptions in constitutional law, we must think not only about moments of crisis but also about the broader ways in which law and the state are conceived. His presentation asked a fundamental question: when does an emergency remain within the law, and when does it slip outside it?

He began by distinguishing between crises, emergencies, and exceptions. Not all crises are genuine emergencies, and not all emergencies require the suspension of legal norms. Drawing on comparative examples, such as France’s extended state of emergency after the 2015 terrorist attacks, he showed how some emergency powers are created within the legal order itself, limited and supervised by courts. These cases reflect the “liberal” account of the exception, where extraordinary measures remain legally bounded.

However, Prof. Smith contrasted this with other contexts where exceptions are not merely temporary deviations but become forms of governance alongside the law, often parodying or mimicking legality while escaping its limits. He examined how legal theory, particularly Carl Schmitt’s conception of sovereignty, helps explain this shift. The sovereign is not only the authority empowered by law but the one who decides when law is suspended or transcended altogether. He emphasised that in such situations the constitution is not simply a legal text but part of a larger political order. Written rules may be reinterpreted or sidelined, while practices and institutions continue to claim legitimacy. This raises important questions about the resilience of constitutionalism when the boundary between norm and exception blurs.

He concluded that studying exceptions requires a broader constitutional theory attentive to history, politics, and competing ideas of sovereignty. Only then can we understand how law responds when it is stretched to its limits in times of crisis.





*Ewan Smith giving his presentation; from left to right: Frédéric Bernard, Ewan Smith*

## **Prof. Ginevra Le Moli (EUI) (*Intervention via Zoom*): Climate Crisis and Crisis Narratives in International Law**

Prof. Ginevra Le Moli (EUI) argued that the climate crisis must be treated as a structural, long-term emergency that is reshaping international law, and that the International Court of Justice (ICJ) is playing a central role in that transformation. Drawing on the ICJ Advisory Opinion of 23 July 2025, she contrasted two competing narratives: the “top emitters” framing, which tends to limit legal obligations to negotiated climate instruments, and the Vanuatu/like-minded states’ framing, which insists on broader obligations grounded in human rights, the law of the sea, prevention and due diligence.

She outlined the ICJ’s multilayered legal framework: the UN Charter and specific climate treaties (UNFCCC, Kyoto, Paris); UNCLOS (treating GHGs as a form of marine pollution); various environmental instruments; and emerging customary norms of prevention, cooperation and intergenerational justice. Crucially, the Court recognised that certain acts or omissions that significantly harm the climate system can constitute internationally wrongful acts with legal consequences under ARSIWA, specifically duties of cessation, non-repetition and full reparation (including restitution, compensation or satisfaction). The ICJ also lowered

doctrinal barriers: multiple-state contribution to harm does not preclude responsibility, and causation may be established by a “sufficiently direct and certain nexus.”

Le Moli stressed the practical implications: the Opinion strengthens legal accountability for major emitters, opens avenues for cross-regime litigation, and pressures states to align domestic policy with international duties. She concluded that law alone is insufficient; achieving climate justice demands the integration of science, economics and, above all, political will. The presentation framed the ICJ Opinion as a significant step toward embedding climate obligations into core international law, with major consequences for governance in an era of systemic crisis.



*Ginevra Le Moli giving her presentation*



## **18:00 | Networking drinks with participants and Prof. George Katrougalos (UN Independent Expert on the promotion of a democratic and equitable international order)**

The day concluded with networking drinks in Geneva's old town, bringing together all participants and Prof. George Katrougalos, UN Independent Expert on the promotion of a democratic and equitable international order. The exchanges with Prof. Katrougalos provided valuable insights and enriched discussions on democracy and global governance.



*Drinks after the first day of the conference; from left to right: Tasneem Ghazi, Colm O'Kinneide, Ewan Smith, Kevin James*

## **19:00 | Group Dinner at Restaurant Brasserie de l'Hôtel de Ville Genève in the old town of Geneva**

The evening continued with a group dinner at Brasserie de l'Hôtel de Ville in Geneva's old town, where participants shared fondue and traditional Swiss dishes. This convivial setting offered another informal networking moment, strengthening personal connections and allowing exchanges to carry on in a relaxed and friendly atmosphere.





*Attendees to the dinner: Nesa Zimmermann, Kevin James, George Katrougalos (UN Independent Expert on the promotion of a democratic and equitable international order), Nicolas Levrat, James Milton, Tasneem Ghazi, Colm O’Cinneide, Ewan Smith, Jana Ruwayha, Eve Lister, Didier Wernli*

## DAY 2 – TUESDAY, 9 SEPTEMBER 2025

### 10:30 – 12:00 | SESSION IV: FEDERALISM AND DEMOCRATIC EROSION (Moderator: Prof. Ewan Smith, UCL)

This fourth panel examined how federal structures can both safeguard and undermine democracy in times of stress. Prof. Nesa Zimmermann argued that democratic backsliding and human rights backlash must be analysed together, highlighting the ambivalent role of federalism. While often praised as a safeguard for pluralism and minority rights, federal systems can also entrench inequalities or neglect certain groups, as illustrated by voting rights disputes in the United States and restrictions on assembly in Switzerland. She situated her research in a broader theoretical framework linking federalism and diversity theory with feminist and migration law perspectives, aiming to connect scholarship with civil society. Kevin James analysed India's 2019 reorganisation of Jammu and Kashmir, carried out unilaterally during a provincial emergency. He contended that this episode exposed a profound democratic deficit and that the Supreme Court's validation of the process reflected a narrow, centralised view of democracy, ignoring the deliberative dimensions of federal constitutionalism.



*Speakers of Panel IV; from left to right: Nicolas Levrat, Kevin James, Ewan Smith, Nesa Zimmermann*



## **Prof. Nesa Zimmermann (UNINE): “Human Rights Backlash and Federalism”**

Prof. Nesa Zimmermann argued that democratic backsliding and human rights backlash must be studied together, particularly in the context of federal states. She defined democratic backsliding as the gradual decline in the quality of democracy and the erosion of institutions, as opposed to sudden breakdown. Human rights backlash, in turn, refers to resistance or opposition to the advancement and enforcement of rights, which can be temporary or part of a broader trend. She emphasized that both phenomena require a “thick” definition of democracy that goes beyond electoral processes to include the rule of law, fundamental rights, and the welfare state.

Her presentation focused on the highly ambivalent role of federalism. Traditionally celebrated as a safeguard for democracy and minority rights, federalism can also entrench inequalities, selectively overrepresent certain groups, and neglect others. It may function as a “laboratory” for rights innovation, but this can cut both ways. Case studies such as voting rights in the United States or restrictions on freedom of assembly in Switzerland show how federal structures can both expand and contract democratic space.

Zimmermann placed her work within a developing theoretical framework that combines federalism and diversity theory with feminist approaches, which are part of a new research project on “Democratic Backsliding and Human Rights Backlash in Federal States”. She highlighted the importance of comparative perspectives as well as the necessity to include the local and international levels in federalism studies. Her project also aims to connect academic research with civil society, grounding present-day laws in historical approaches and using artistic means of expression in order to generate a public debate on the importance of human rights in today’s societies. She concluded that understanding the role of federalism is crucial for reinforcing institutional resilience and for safeguarding democracy against backsliding and backlash.



*Nesa Zimmermann giving her presentation*



## **Kevin James (UCL): “Democratic Deficit in the Federal Reorganisation of Jammu & Kashmir”**

Kevin James argued that the federal reorganisation of Jammu and Kashmir in 2019 reveals a profound democratic deficit created through the use of emergency powers. His paper examined how the Indian Union ‘downgraded’ the state of J&K into two Union Territories, J&K and Ladakh. This move was carried out unilaterally during a period of provincial emergency under Article 356 of the Indian Constitution, when J&K’s elected legislature and government had been dissolved. In this context, the Union Parliament effectively “consulted itself” before enacting the reorganisation, bypassing any genuine local representation.

James emphasised that this sequence of moves blurred the line between temporary emergency measures and permanent constitutional change. The Indian Supreme Court upheld the validity of these acts in 2023, reasoning that parliamentary ratification was sufficient to prevent claims of democratic deficit. For James, this reasoning illustrates a narrow view of democracy, reduced to parliamentary approval at the federal level, while ignoring the federal and deliberative dimensions of Indian constitutionalism.

Drawing on theories of deliberative democracy and federalism, he proposed the concept of “federal deliberation” as a more appropriate standard. In his view, the legitimacy of constitutional reorganisation in a federation requires meaningful dialogue between federal and subnational levels, and recognition of overlapping representative claims. The J&K reorganisation failed this test, since local voices were absent and communication channels were curtailed, including severe restrictions on internet and political activity.

James concluded that the Supreme Court’s judgment marks a shift in India’s emergency doctrine. Instead of safeguarding provincial democracy through temporary federal custodianship, it now permits permanent restructuring of federal relationships during emergencies, with little space for federal deliberation. This outcome entrenches a democratic deficit and leaves the people of J&K without effective recourse.



*Kevin James giving his presentation; from left to right: Ewan Smith, Nesa Zimmermann, Kevin James*

## 12:00 – 14:00 | Lunch at the University of Geneva



*Networking lunch at the University of Geneva*

## 14:00 – 15:30 | SESSION V: DEMOCRATIC ACCOUNTABILITY: FROM HOUSING RIGHTS TO NATIONAL SECURITY (Moderator: Prof. Nicolas Levrat, UNIGE)

This panel examined the limits of accountability in both social rights and security contexts. Eve Lister argued that debates around the right to housing expose not only a crisis of rights but also a deeper crisis of democratic faith. She mapped the fragmented landscape of housing rights scholarship, showing how intellectual silos among “believers” and “sceptics” hinder dialogue and leave the right to housing disconnected from practice. For her, growing housing inequality and nationalist politics risk eroding trust in democracy itself, making housing a test case for the resilience of democratic institutions. Tasneem Ghazi turned to national security, analysing the UK’s policy of deporting foreign national offenders. She showed how parliamentary debates since 2007 often prioritised political positioning over substantive scrutiny, while NGOs and peers raised concerns that were largely ignored. Her conclusion was that accountability cannot rely on Parliament alone when policies are electorally popular but constitutionally damaging.



*Speakers of panel V; from left to right: Nicolas Levrat, Tasneem Ghazi, Eve Lister*

## **Eve Lister (UCL): “Crisis of Rights or Crisis of Faith? Reframing Housing Justice Through Legal and Democratic Lenses”**

Eve Lister, PhD Student at UCL, argued that debates around the right to housing reveal not only a crisis of rights but also a crisis of democratic faith. Her paper, mapped the fragmented scholarly landscape on housing rights into a typology of “true believers,” “conceptual sceptics,” “functional sceptics,” and “entire sceptics.” She showed how each group adheres to particular intellectual traditions, resulting in silos that limit cross-fertilisation and dialogue. The absence of communication between these camps, she contended, has created a gap between housing practitioners and rights theorists, leaving the right to housing as a series of disconnected parts rather than a coherent framework.

True believers see the right to housing as normatively settled in international law and as a progressive framework through which to demand better housing policies. Conceptual sceptics, by contrast, emphasise housing as a policy or market structure, often detached from rights language. Functional sceptics focus on the delivery gap, arguing that rights-based frameworks often fail to produce practical results. By juxtaposing these approaches and emphasising the absence of cross-relating across these logics, Lister highlighted how scepticism of social rights is deeply entwined with scepticism of democratic governance itself.

She stressed that the consequences go beyond academic debates. In contexts of housing inadequacy, growing wealth inequality, and nationalist politics, the perception that democracy protects property interests above



basic needs risks eroding public faith in democratic institutions. The right to housing thus becomes a test case for the broader relationship between social rights and democracy, a crucial inflection point at which the tension between wealth inequality and basic human need is illuminated. Lister concluded by calling for renewed dialogue across intellectual traditions to reframe housing rights in ways that strengthen institutional resilience, restore participatory trust, and confront the democratic implications of housing injustice.



*Eve Lister giving her presentation; from left to right: Tasneem Ghazi, Eve Liser, Nesa Zimmermann*

### **Tasneem Ghazi (UCL): “A Case study on Accountability in National Security Policy: Holding Ministers to Account for the Deportation of Foreign Criminals”**

Tasneem Ghazi’s paper traced the evolution of legislation deporting foreign criminals, in order to investigate whether Parliament has been an effective forum of accountability within the context of public security. Ghazi chose this case study because it requires governments to confront the uncomfortable tension between rights and due process on the one hand, and concerns regarding national security on the other. She suggested that deportation policy offers unique insights into the limits of democratic accountability because it is widely supported by the public, elected politicians and the press.

Ghazi explained that the Home Secretary's discretionary powers to deport on foreign criminals on grounds of their criminality was transformed into a duty following mounting political pressure in the aftermath of foreign prisoners scandal. As a result of an interrogation by the Public Accounts Committee in Spring 2006, the Blair Government was forced to admit that 1,023 foreign prisoners had been released early and not deported, contrary to government policy. To save face, they introduced the UK Borders Act 2007 which imposed upon the Home Secretary a duty to deport all foreigners sentenced to a period of imprisonment of twelve months. Expediting the deportation of foreign criminals continued to be a priority under the Conservative-Liberal Democratic Coalition. In 2012, Theresa May introduced changes to the Immigration Rules which were meant to require the courts to adopt a more prescriptive and deferential approach when adjudicating on deportation appeals pursued based on article 8 of the European Convention on Human Rights. The Coalition Government then introduced the Immigration Act 2014 which stripped foreign criminals of a right to appeal deportation decisions while being present in the UK. It also sought to resolve the problem of spurious immigration appeals by removing the statutory right of appeal for most immigration decisions. Ghazi's paper analysed parliamentary scrutiny of these different attempts to expedite deportation. Her primary focus was whether Parliament debated difficult substantive issues in a thoughtful way and whether scrutiny led to improvements in the form and content of legislation. Her research revealed that the majority of MPs, especially Frontbench Opposition MPs, took the opportunity to score political points, rather than engage with policy substance. She found that the most effective scrutiny of the underlying legal issues and policy content occurred during interventions by practitioners, judges, NGOs, members of the House of Lords and two select committees with a constitutional remit. In her view, Parliament alone cannot be expected to hold the Government to account for controversial security-driven policies. Ghazi concluded that in such contexts, non-political actors play a more salient role in protecting due process and ensuring that a policy effectively achieves its stated aims.



*Tasneem Ghazi giving her presentation; from left to right: Eve Lister, Tasneem Ghazi, Nesa Zimmermann*

### **15:30 – 17:30 | Final Roundtable: Synthesis and Forward Paths**

The conference concluded with a final roundtable that gathered participants for cross-cutting discussions on democratic resilience, legal adaptability, and interdisciplinary responses to crises. This session also set the stage for future collaboration: as outlined in the call for papers, all speakers were invited to submit revised contributions, individually or in co-authorship, with the aim of collective publication. The exchanges laid the foundation for an edited volume or special journal issue, ensuring that the insights of these two days will continue to resonate beyond the conference itself.



## Closing speech of Mrs Jana Ruwayha



*Jana Ruwayha giving her closing speech*

In her closing remarks, the organizer of the conference, Mrs Jana Ruwayha, reflected on two days of rich discussion around the central question of how law and democracy respond to crises. She highlighted contributions that showed how crises expose both fragility and adaptability, how the rhetoric of crisis can legitimise exceptional powers, and how the line between emergencies and exceptions increasingly blurs in an age of “permacrisis”. Panels on federalism and accountability illustrated how structures can both reinforce resilience and deepen vulnerabilities, from Jammu & Kashmir to European federalism, from housing rights to national security. She stressed that crises blur boundaries between temporary and permanent, rhetoric and reality, continuity and transformation, and that they must be understood as interconnected phenomena requiring interdisciplinary approaches. Mrs Ruwayha concluded that whether law bends, resists, or transforms depends on the values and institutions we uphold, thanking all participants and supporters for strengthening collaboration and advancing scholarship on democracy in times of crisis.



*Group picture taken at the end of the two-day conference; from left to right: Tasneem Ghazi, Kevin James, James Milton, Eve Lister, Jana Ruwayha*