

Course title	Comparative Constitutional Law				
Teacher(s)	null			開講区分	単位数
				2nd semester	2.0
Numbering Code		Day・Period	Fri4	Timetable Slot Code	3J392

Lesson topic

In recent decades, we have witnessed a renaissance of comparative constitutional studies as a field of study. Despite this prominence, scholars are still debating the methodological foundations and ultimate proportions of comparative constitutional studies. Moreover, even the most traditional approaches to comparative law are being challenged by new phenomena such as globalization, the migration of constitutional thought, and the so-called judicial dialogue among courts around the world. Are we witnessing a process of convergence of world institutions towards a global dimension of constitutional law? If so, what is the role and meaning of comparative constitutional studies in the context of these new changes in legal systems around the world?

Lesson target

The objective of this class is to study and confront multiple constitutional rules, highlighting the similarities and differences, in order to better explain and understand the ultimate values that underpin constitutional agreements. Upon completing the course, students should be able to acquire knowledge about the various rules and institutions being compared, which will ultimately lead to acquiring knowledge about the basic principles that shape the relationship between sovereignty and citizenship.

Syllabus and plan

There will be a total of fifteen lectures based on the following five sub-topics. The topics and schedule may be slightly adjusted depending on the progress over the days. Students are expected to carefully read the corresponding part in the textbook before coming to class.

I. Theoretical Foundations:

What does comparative constitutional studies entail? What are the ways of doing it?

1. Comparative Methodologies
2. Constitutionalism(s)

II. Historical Experiences:

Why is it important to take a contextual approach when studying foreign systems of law, especially the constitution? How is it different from the Japanese experience?

3. US Constitutional Law and History
4. The Constitution of China

III. Constitutional Principles:

How are different constitutional principles manifested within the law and what difference does it make?

5. Democracy
6. Separation of Powers
7. The Rule of Law
8. Human Rights Law
9. Federalism

IV. State Institutions:

What are the various forms of government under the constitution and why is one chosen over the other?

10. Parliaments
11. Governments
12. Administration
13. Courts with Constitutional Jurisdiction

V. Transnational Constitutionalism:

What does the future hold for comparative constitutional studies?

14. International Constitutionalism
15. Constitutional Transplants

Evaluation method

Final grades will be calculated based on the following process:

- Class participation 30%
- Final essay: 70%

Evaluation baseline

- Class participation will be graded on in-class verbal contributions, such as taking part in open discussions or raising relevant questions in class. Priority will be given to those who have had less chance to speak out.
- Students can choose whatever topic related to comparative constitutional law for their final essay, subject to prior approval. Office hours or other methods of communication will be available for consultation. The length required is from 20 to 25 pages on Microsoft Word, double spaced, font size 11 or 12. The essay should be completed with appropriate research questions, logical arguments, and evidence based on the discussion in the course. References are also required. Citation style, footnotes or endnotes may be selected freely as long as it is consistently applied.

Notice (include info. on related class)

No prior course on constitutional law is required, but it will be assumed that students will have basic knowledge on law in general.

Review and preparation

- Preparation: Read the assigned section of the textbook and prepare to share your thoughts in class, including (but not limited to) questions or possible disagreements with the author.
- Review: Students should think about how each topic is manifested in their relevant jurisdictions after class and also take up further reading if it is related with their final essay.

Office hour · Contact information

Contact details will be announced during the course.

Message for student

This course is recommended for students who wish to learn more about various foreign systems of law, especially the different aspects of both constitutional design and constitutional adjudication.

Improvements in Teaching

Text

Masterman, Roger, and Robert Schütze. *The Cambridge Companion to Comparative Constitutional Law*. Cambridge University Press, 2019. (Available for purchase on Amazon Kindle)

Reference Material

1. Ackerman, Bruce A. *Revolutionary Constitutions : Charismatic Leadership and the Rule of Law*. Cambridge, Massachusetts: Belknap Press of Harvard University Press, 2019.
2. Calabresi, Steven G., Bradley G. Silverman, Joshua Braver, and Samuel A. Alito. *The U.S. Constitution and Comparative Constitutional Law : Texts, Cases, and Materials*. University Casebook Series. St. Paul, MN: Foundation Press, 2016.
3. Dixon, Rosalind, and Tom Ginsburg. *Comparative Constitutional Law in Asia*. Cheltenham, UK ; Northampton, MA, USA: Edward Elgar, 2014.
4. Hirschl, Ran. *Comparative Matters: The Renaissance of Comparative Constitutional Law*. Oxford University Press, 2016.
5. Jackson, Vicki C., and Mark V. Tushnet. *Comparative Constitutional Law*. Third ed. University Casebook Series. St. Paul, MN: Foundation Press : LEG, D/b/a West Academic, 2014.
6. Ross, Stephen F., Helen Irving, and Heinz Klug. *Comparative Constitutional Law : A Contextual Approach*. New Providence, NJ: LexisNexis, 2014.
7. Tushnet, Mark V. *Advanced Introduction to Comparative Constitutional Law*. Elgar Advanced Introductions. Cheltenham, UK: Edward Elgar, 2014.

Classroom Language

English

Keywords

Constitutional law; Comparative Legal Studies; Legal History