

JUS 5930 Comparative Public Law - Course Outline 2018

Mondays, 12:15-14

1. Comparative Public Law: Overview, Theory and Methodology

Lecturer: Malcolm Langford (22 January 2018)

Reading:

- Rosenfeld, Michele & Sajo, Andras, *The Oxford Handbook of Comparative Constitutional Law* (Oxford University Press, 2012) ('Rosenfeld & Sajo'), pp. 1-25, 1328-1347 (45)

Recommended

- R. Sacco, 'Legal Formants: A Dynamic Approach to Comparative Law (Installment I of II)', *The American Journal of Comparative Law* Vol. 39, No. 1 (Winter, 1991), pp. 1-34 (34)

Case Materials:

- *Marbury v. Madison* 5 U.S. 137 (1803) (US Supreme Court)

2. Constitutions: Typologies and Place in Legal System

Lecturer: Malcolm Langford (29 January 2018)

Reading:

- Rosenfeld and Sajo, pp. 98-132 (35)
- José Antonio Cheibub, Zachary Elkins and Tom Ginsburg, 'Beyond Presidentialism and Parliamentarism', *British Journal of Political Science*, 44(3) 82014), pp. 1-30 (30).
- Rosenfeld and Sajo, 169-185 (17);

Case Materials

- Read two [foreign constitutions](#)

3. The Constitution-making process

Lecturer: Malcolm Langford (5 Feb 2018)

Reading:

- Mark Tushnet "Constitution-Making: An Introduction." *Texas Law Review*. 91 (2013), pp. 1983-2015 (32):
- Jon Elster: "Clearing and Strengthening the Channels of Constitution-making" in Tom Ginsburg (ed) *Comparative Constitutional Design*. Cambridge University Press 2002, pp. 15-30 (15). Available in *Fronter*.

Case Materials

- *Certification of the Constitution of the Republic of South Africa*, 1996 (CCT 23/96) [1996] ZACC 26; 1996 (6 Sept 1996) (Constitutional Court of South Africa) – Read selected extracts.

4. The Horizontal Separation of Powers: Presidentialism, parliamentarism etc.

Lecturer: Iris Nguyen Duy (12 Feb 2018)

- Rosenfeld and Sajo, pp. 547-575 (29).
- Rosenfeld and Sajo, chapter 29 or 30 (22).

5. The Vertical Separation of Powers: Elections, amendments, federalism and internal ordering

Lecturer: Malcolm Langford (26 Feb 2018)

Reading:

- Rosenfeld and Sajo, 501-28 (28).
- Ginsburg, Tom, 'The Virtues of Evolution in an Age of Revolution: Norway's Enduring Constitution in Comparative Perspective', *Nytt Norsk Tidsskrift*, No. 3 (2014), 225-237.
- Rosenfeld and Sajo, chapters 27 or 28 (19-34). Available in *Fronter* in English and Norwegian.

Case Materials

- [Odinga v Independent Electoral and Boundaries Commission](#), [2013] eKLR, Supreme Court of Kenya.
- [Miller & Dos Santos v Secretary of States for Exiting the European Union](#), Case No. CO/3809/2016 CO/3281/2016, High Court of Justice ('Brexit Judgment')

6. Judicial Review in a National and International Context

Lecturer: *Malcolm Langford* (5 March 2016)

Reading:

- Rosenfeld and Sajo, pp. 689-717, 816-830, 1231-1253 (56)

Case Materials

- *Life Imprisonment Case* (1977), 45 BVerfGE 187 (Federal Constitutional Court of Germany). Available in *Frontier*.
- BVerfGE 73, 339 2 BvR 197/83 [Solange II-decision](#) (Federal Constitutional Court of Germany)
- [Case 92-312 DC](#), Conseil Constitutionnel, France. – Read selected extracts.

7. Constitutional Rights I: Civil Rights

Lecturer: *Malcolm Langford* (12 March 2018)

Reading:

- Rosenfeld and Sajo, pp. 891-908 (18)
- Malcolm Langford (ed.), 'Justiciability of Social Rights: From Practice to Theory, *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law* (Cambridge University Press, 2008), pp. 3-45 (42)

Case Materials:

- [R.A.V. v. City of St. Paul](#), 505 U.S. 377 (1992)
- [Judgment T-760/08](#) July 31, 2008 (Second Review Chamber of the Colombian Constitutional Court).

8. Constitutional Rights II: Socio-Economic and Environmental Rights

Lecturer: *Malcolm Langford* (19 March 2018)

Reading:

- Daly and May "Comparative environmental constitutionalism" *Jindal Global Law Review* 2015 (22 pages)
- Louis Kotze "The Conceptual contours of Environmental Constitutionalism" 21 *Widener Law Review* 187 2015 (15 pages)

Recommended:

- James May & Erin Daly, *Global Environmental Constitutionalism* (CUP, 2014)

Cases:

- [Maccsand Pty Ltd and others v City of Cape Town and Others](#) 2011, Constitutional Court of South Africa.
- [Kelsey Cascade Rose Juliana et al v The United States of America et al](#) 2016, US District Court for the District of Oregon.

9. Comparative Tax Law and Multinational Corporations

Lecturer: *Malcolm Langford* (9 April 2018)

Reading:

- Ronen Palan, Richard Murphy, and Christian Chavagneux, 'The instruments of tax havens' in *Tax havens: how globalization really works* (Cornell University Press, 2010), pp. 77-107 (30)
- Devereux, Michael P. and Vella, John, [Are We Heading Towards a Corporate Tax System Fit for the 21st Century?](#) (November 20, 2014). *Fiscal Studies*, Forthcoming; Oxford Legal Studies Research Paper No. 88/2014. (26)

Case materials:

- EU C-196/04 - [Cadbury Schweppes and Cadbury Schweppes Overseas](#)

10. New trends and issues: Transnationalism and Constitutionalism

Lecturer: Christoffer Eriksen (16 April 2018)

Reading:

- Rosenfeld and Sajo, pp. 1165-1208 (43).

Case materials:

- [*Opinion 2/13*](#) of the European Court of Justice, 18 December 2014: On Accession of the EU to the European Convention of Human Rights. – Read selected extracts.

11. Comparative Administrative Law

Lecturer: Malcolm Langford (23 April 2018)

Reading:

- John S. Bell, 'Comparative Administrative Law', in M. Reimann and r. Zimmermann, *Oxford Handbook of Comparative Law* (OUP, 2006), 1261-1286 (26)
- Rose-Ackerman, Susan & Lindseth, Peter, *Comparative Administrative Law* (Edward Elgar Publishing Limited, 2010) ('Rose-Ackerman & Lindseth'), 63-77, 225-245, 389-425 (75).

Case materials:

- [*Anisminic Ltd v. Foreign Compensation Commission*](#) [1969]2 AC 147. – Read selected extracts.