

Comparative Constitutionalism Summer 2009

Syllabus

1 Introduction

Further Readings

- Dorsen/Sájo/Rosenfeld/Baer, *Comparative Constitutionalism*, 2003, 1-16 and Teitel, *Comparative Constitutional Law in a Global Age*, *Harvard L Rev* 114 (2004) 1-27 (review of Dorsen et al)

2 Constitutionalism in Transition

Ludwikowski, *Constitutional Culture of New East-Central European Democracies*, Wyrzykowski (ed.), *Constitutional Cultures 2000*, 55-80

Prempeh, Africa's "constitutionalism revival": False start or new dawn?, *Int J Constitutional Law*. 2007; 5: 469-506

3 Theories and Methods of Comparative Constitutional Law

Frankenberg, *Critical Comparisons: Re-thinking Comparative Law*, 26 *Harvard Int'l L J* (1985), 411-455

Further readings:

- Zumbansen, *Comparative Law's Coming of Age?* *German LJ* 6 (2005)1073-1084
- Choudry, *Migration as a new Metaphor in comparative constitutional law*, in: Choudry ed., *The Migration of Constitutional Ideas*, 2006, 1-25
- Tushnet, *Some reflections on method in comparative constitutional law*, in: Choudry ed., *The Migration of Constitutional Ideas*, 2006, 67-83
- Dannemann, *Comparative Law: Study of Similarities or Differences?*, in Reimann/Zimmermann eds. *Oxford Handbook of Comparative Law*, 2006, 383-419

4 Case Analysis

Example

5 Pro and Con Comparative Constitutional Law

'A conversation between U.S. Supreme Court justices' (2005) 3 *ICon* 519-541

Further readings:

- Blum, *Mixed Signals*, 39 *San Diego L Rev* 157 (2002)
- Drobnič/van Erp, *The Use of Comparative Law by Courts*, 1999.

6 Legal Pluralism

Dorsen/Sájo/Rosenfeld/Baer, *Comparative Constitutionalism*, 2003, 47-65 (Beyond the nation-state)

Merry, *Legal Pluralism*, *Law & Society Review* 22 (1988) 869-896

Fundamental Rights from a Comparative Perspective (*selected topics*)

Readings from the Casebook script (2nd edition) & add one case from any other jurisdiction you research yourself

1. Dorsen/Sajo/Rosenfeld/Baer, Comparative Constitutionalism, xxx (Fundamental Rights, intro)
2. Dorsen/Sajo/Rosenfeld/Baer, Comparative Constitutionalism, xxx (abortion)
3. Dorsen/Sajo/Rosenfeld/Baer, Comparative Constitutionalism, xxx (Death penalty, extradition, targeted killings)
4. Dorsen/Sajo/Rosenfeld/Baer, Comparative Constitutionalism, xxx (Torture)
5. Dorsen/Sajo/Rosenfeld/Baer, Comparative Constitutionalism, xxx (Euthanasia)
6. Dorsen/Sajo/Rosenfeld/Baer, Comparative Constitutionalism, xxx (Transsexuals)
7. Dorsen/Sajo/Rosenfeld/Baer, Comparative Constitutionalism, xxx (Intimacy)
8. Dorsen/Sajo/Rosenfeld/Baer, Comparative Constitutionalism, xxx (Marriage)
9. Dorsen/Sajo/Rosenfeld/Baer, Comparative Constitutionalism, xxx (Family)
10. Dorsen/Sajo/Rosenfeld/Baer, Comparative Constitutionalism, xxx (Data, Reputation)
11. Dorsen/Sajo/Rosenfeld/Baer, Comparative Constitutionalism, 2003, 724-749 (Affirmative Action) & Global Rights: Affirmative Action: A Global Perspective, 2005
12. Dorsen/Sajo/Rosenfeld/Baer, Comparative Constitutionalism, 2003, 885-921 (Hate speech)
13. Dorsen/Sajo/Rosenfeld/Baer, Comparative Constitutionalism, 2003, 922-942 ("religion") and Headscarf cases ECtHR Dahlab, Sahin
14. Dorsen/Sajo/Rosenfeld/Baer, Comparative Constitutionalism, 2003, 958-973 (Accommodation)
15. Dorsen/Sajo/Rosenfeld/Baer, Comparative Constitutionalism, 2003, 1267-1287 (militant democracy)