

School of Undergraduate Studies

Ambedkar University Delhi

Course Outline

Time Slot-_____

Course Code: SLGC2LP205

Title: Comparative Constitutional Law

Cohort for which it is compulsory:

Cohort for which it is elective: MA Law Politics and Society

No of Credits: 4

Semester and Year Offered: 2nd Semester (Winter Semester 2018)

Course Coordinator and Team: S R Prabakaran

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Pre-requisites:

Aim: The course aims at familiarizing the students with key political concepts like political obligation, sovereignty, Rule of Law, etc. which interlace the idea and the institution of state. Knowledge of such concepts become imperative for any student of law and politics as some of these political concepts are constitutive of the idea of law. Those coming from a legal background would particularly find this course a useful pedagogic exercise in understanding law as a political and social category while students of politics interested in theory and history of ideas will find it engaging to study the dialectics between law and state as it unfolds within the politico-legal institutional framework and processes.

A brief description of the Course:

The course will cover a series of topics arising in the comparative study of constitutional systems. Concentrating on constitutional structure and law in India and in such other countries as Australia, Canada, France, Great Britain, United states, South Africa etc. Comparative Constitutional Law course is intended to make students familiar with the constitutional systems of a few countries. Students will be benefitted from deeper understanding of the doctrines and values underlying the provisions and principles from various constitutional systems.

Course Objectives

1. Transformation of students understanding of the constitutional law role in establishing effective government system;
2. Considering how comparative constitutional study can offer insights into our own constitutional system.
3. Using a comparative approach to constitutional law with a view to developing a critical understanding of how different constitutional systems deal with similar issues.

Syllabus with List of Readings	
Module 1:	Topics to be Covered: Introduction to comparative constitutional law Relevance, Scope and Challenges.
Week 1 and 2:	<ol style="list-style-type: none"> 1. D.D.Basu, Comparative Constitutional Law, 2nd ed., Wadhwa Nagpur, 2008, pp 1-12. 2. Jan M Smits (ed), Elgar Encyclopedia of Comparative Law, Edward Elgar, Cheltenham, UK, 2006, pp 57-65, 187-199. 3. Reimann, Mathuas and Zimmermann, Reinard, The Oxford Handbook of Comparative Law, OUP, Oxford, 2006, pp 1225-1257. 4. Mark Tushnet, The Possibilities of Comparative Constitutional Law (1999) 108 Yale.L.J. 1225.
Module 2:	Topics to be Covered: Different approaches to Comparative constitutional law. A. Constitutional Borrowings B. Legal Transplantation C. Migration of Constitutional Ideas
Week 3 and 4:	<ol style="list-style-type: none"> 1. Vicki C. Jackson and Mark V. Tushnet, Comparative Constitutional Law, Foundation Press. 2. Sujit Choudhry, Globalisation in Search of Justification: Toward a Theory of Comparative Constitutional Interpretation (1999) 74 Ind. L. J. 819.
Module 3:	Topics to be Covered: A. Comparative constitutional law in India. B. Judicial Transplantation and Indian Supreme Court. C. Constitutional Borrowing in South Asia
Week 5 and 6:	<ol style="list-style-type: none"> 1. Sujit Choudhry, CHAPTER 2 from Comparative Constitutionalism in South Asia Oxford University Press edited by Sunil Khilnani Vikram Raghavan Thiruvengadam 2. Constitutional Borrowing in South Asia in Comparative Constitutionalism in South Asia

	Edited by Sunil Khilnani, Vikram Raghavan and Arun K. Thiruvengadam from Oxford University Press
Module 4:	Topics to be Covered: A. Federalism B. The separation of powers C. Rule of Law
Week 7 and 8:	1. Michael Burgess, Comparative Federalism, Theory and Practice, Routledge, New York, 2006, pp 9-49. 2. Mahendra P. Singh, V N Shukla, 11th ed., EBC, Lucknow, 2008, pp A28-A35. 3. U Baxi, Rule of Law in India: Theory and Practice in Randall Peerenboom (ed.), Asian Discourses of Rule of Law, Routledge, London, 2004, pp 324-345.
Module 5:	Topics to be Covered: The systems of government in different countries A. Legislature B. Executive power C. Judicial power and judicial review
Week 9 and 10:	1. Hirschl R. Comparative Matters. The Renaissance of Comparative Constitutional Law. OUP. 2014. 2. M.P. Singh, V.N Shukla's Constitutional Law, (11th ed.) Eastern Book Company, pp A 52 – A 56, 482-536, 614-677
Module 6:	Topics to be Covered: A. Freedom of speech. B. Freedom of Religion C. Emergency powers
Weeks 11 and 12:	1. The Wheel of Law India's Secularism in Comparative Constitutional Context by Gary Jeffrey Jacobsohn. 2. Comparative Constitutional Law in Asia, R Dixon and T Ginsburg (eds), Edward Elgar, 2013 3. Emergency powers in Asia : exploring the limits of legality. Responsibility: edited by Victor V. Ramraj, Arun K. Thiruvengadam. Cambridge University Press, 2010.

Background Books

The following books provide useful overviews of the field, and the course draws upon portions of some of these books as part of the syllabus.

1. M.P. Jain, Indian Constitutional Law, 5th ed., Wadhwa, Nagpur, 2003.

2. Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford: OUP, 2008).
3. Tom Ginsburg, *Judicial Review in New Democracies: Constitutional Courts in Asian Cases*, Cambridge University Press
4. DD Basu, *Comparative Constitution Law*, 2nd (ed.), Wadhwa, 2008.
5. *The Oxford Handbook of Comparative Constitutional Law* Edited by Michel Rosenfeld and Andras Sajo Oxford University Press 2012.

Assessment Methodology:

A combination of final term examination, Project Writing, individual presentations, Response essay, and class participation. Rough break up: Project writing (20%), individual paper presentations (20%), final exam (40%), Response essay and class participation (20%)