

LA370-15 Comparative Constitutional Law

21/22

Department

School of Law

Level

Undergraduate Level 3

Module leader

David Vitale

Credit value

15

Module duration

10 weeks

Assessment

100% coursework

Study location

University of Warwick main campus, Coventry

Description

Introductory description

Comparative constitutional law has become an exciting - and growing - area of law. Across the globe, constitutional courts are making ground-breaking decisions on controversial legal issues like hate speech, "obscene" pornography, abortion, physician-assisted suicide and social welfare rights. This module will cover these (as well as other) topics which arise in the comparative study of constitutional systems. In the process, we will consider different jurisdictions, extending beyond Europe and North America to often-overlooked constitutional systems in Latin America, Africa and Asia. And we will do so by situating those constitutional systems in their broader social, economic and historic contexts.

[Module web page](#)

Module aims

The module's principal aims are:

To introduce students to methods and theories of comparative constitutional law, including questions of why and what we compare, and when constitutional courts opt to rely upon comparative material in their decision-making;

To introduce students to different models of constitutionalism, the variety of constitutional systems which adopt each model, and how constitutional ideas “migrate” between systems;
To provide knowledge of the diversity, across systems, in:
Institutional arrangements;
Models of constitutional review;
Mechanisms for constitutional change;
Approaches to protecting minority groups;
Approaches to rights protection (via a number of constitutional rights case studies);
To build research and writing (including analytical) skills;
To encourage critical reflection on all of the foregoing, as well as on constitutional law’s capabilities and limits in regulating the exercise of public power in contemporary society.

Outline syllabus

This is an indicative module outline only to give an indication of the sort of topics that may be covered. Actual sessions held may differ.

Introduction to Comparative Constitutional Methodology
Models of Constitutionalism, Constitutional Systems and “Migration” of Ideas
Institutional Arrangements
Models of Constitutional Review
Mechanisms for Constitutional Change
Approaches to Protecting Minority Groups
Freedom of Expression and Hate Speech, Pornography
Right to Life and Abortion, Physician-Assisted Suicide
Positive Social Welfare Rights

Learning outcomes

By the end of the module, students should be able to:

- Explain in-depth current developments relating to the areas studied in the module in a variety of constitutional systems
- Demonstrate full knowledge of comparative constitutional law methodology, including what can be learned from a comparative study of constitutional systems
- Think systematically about constitutions, different structures for organising governments, and the varying roles which courts (and constitutional law more broadly) can play
- Understand and critically evaluate the different approaches to constitutional law across systems (including models of constitutional review, mechanisms for constitutional change, and approaches to protecting minority groups and rights)
- Demonstrate enhanced research and writing skills, including analytical skills and the ability to construct and substantiate a comprehensive scholarly argument
- Demonstrate enhanced discussion and communication skills, including the ability to work collaboratively with others.

Indicative reading list

- Ran Hirschl, *Comparative Matters: The Renaissance of Comparative Constitutional Law*

(OUP 2016) [especially re: comparative constitutional methodology]

- Andras Jakab, Arthur Dyevre and Giulio Itzcovich (eds), *Comparative Constitutional Reasoning* (CUP 2017) [especially re: comparative constitutional methodology]
- David Law, *Constitutionalism in Context* (CUP 2019 forthcoming) [especially re: models of constitutionalism, constitutional systems, and the “migration” of ideas]
- Tom Ginsburg (ed), *Comparative Constitutional Design* (CUP 2012) [especially re: institutional arrangements and models of constitutional review]
- Michel Rosenfeld and Andras Sajó (eds), *The Oxford Handbook of Comparative Constitutional Law* (OUP 2013)
- Tom Ginsburg and Rosalind Dixon (eds), *Comparative Constitutional Law* (Edward Elgar 2011)

Subject specific skills

No subject specific skills defined for this module.

Transferable skills

No transferable skills defined for this module.

Study

Study time

| Type | Required |
|---------------|-----------------------------|
| Lectures | 18 sessions of 1 hour (12%) |
| Seminars | 7 sessions of 1 hour (5%) |
| Private study | 125 hours (83%) |
| Total | 150 hours |

Private study description

No private study requirements defined for this module.

Costs

No further costs have been identified for this module.

Assessment

You must pass all assessment components to pass the module.

Students can register for this module without taking any assessment.

Assessment group A3

| | Weighting | Study time |
|-------|-----------|------------|
| Essay | 100% | |

After term, students will submit final essays on their chosen topics (from a list of available topics). Students will be assessed both on their overall knowledge and understanding of the module material, as well as their ability to conduct independent research and craft a scholarly argument.

Feedback on assessment

Feedback via Tabula.

Availability

Courses

This module is Optional for:

- Year 3 of ULAA-M300 Undergraduate Law
- ULAA-M105 Undergraduate Law (3 year) (Qualifying Degree)
 - Year 3 of M105 Law (3 year) (Qualifying Degree)
 - Year 3 of M105 Law (3 year) (Qualifying Degree)
- ULAA-M106 Undergraduate Law (4 year) (Qualifying Degree)
 - Year 3 of M106 Law (4 year) (Qualifying Degree)
 - Year 4 of M106 Law (4 year) (Qualifying Degree)
- Year 4 of ULAA-M104 Undergraduate Law (Year Abroad)
- ULAA-M108 Undergraduate Law (Year Abroad) (Qualifying Degree)
 - Year 4 of M108 Law (Year Abroad) (Qualifying Degree)
 - Year 4 of M108 Law (Year Abroad) (Qualifying Degree)
- Year 3 of ULAA-ML33 Undergraduate Law and Sociology
- Year 3 of ULAA-M110 Undergraduate Law with Humanities (3 Year)
- Year 3 of ULAA-M113 Undergraduate Law with Humanities (4 Year) (Qualifying Degree)

This module is Option list A for:

- Year 4 of ULAA-M10A Undergraduate Law with French Law (Qualifying Degree)
- Year 4 of ULAA-M10C Undergraduate Law with German Law (Qualifying Degree)
- Year 4 of ULAA-M113 Undergraduate Law with Humanities (4 Year) (Qualifying Degree)
- ULAA-M115 Undergraduate Law with Social Sciences (3 Year) (Qualifying Degree)
 - Year 3 of M115 Law with Social Sciences (3 year) (Qualifying Degree)
 - Year 3 of M115 Law with Social Sciences (3 year) (Qualifying Degree)

This module is Option list B for:

- ULAA-ML34 BA in Law and Sociology (Qualifying Degree)
 - Year 3 of ML34 Law and Sociology (Qualifying Degree)
 - Year 4 of ML34 Law and Sociology (Qualifying Degree)
- Year 4 of ULAA-ML33 Undergraduate Law and Sociology

This module is Option list E for:

- UPHA-V7MW Undergraduate Politics, Philosophy and Law
 - Year 2 of V7MW Politics, Philosophy and Law
 - Year 2 of V7MW Politics, Philosophy and Law