



Constitutional History: Comparative Perspectives

April 12 & 13, 2016

Chicago, Illinois

Sponsored by

- University of Illinois College of Law, Program in Constitutional Theory, History & Law
- University of Bologna School of Law
- Center for Constitutional Studies and Democratic Development, Johns Hopkins University
- University of Illinois Law Review
- University of Illinois European Union Center

Venue

Conference Chicago at University Center
525 South State Street
Chicago, IL 60605

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Overview

Accompanying the spread of constitutional government around the world has been a profound interest in the comparative aspects of constitutional law. Scholars have catalogued the differing features of national constitutions and examined how different constitutional systems resolve common legal issues. So, too, judges faced with legal questions have sought guidance in the decisions of constitutional courts of other nations. While comparative constitutional law is therefore a well-established field, less attention has been paid so far to the comparative dimensions of constitutional history. This international conference aims to address that shortcoming by energizing the study and analysis of constitutional history from comparative perspectives. The conference has several interrelated goals. It will provide a forum for presentation and discussion of current research on issues of constitutional history that crosses national boundaries. Relevant topics in this regard include such things as the origins of constitutional governments in different nations, changes in constitutional structures over time, comparative studies of the shifting roles of constitutional actors, the development of individual rights in different systems, and the legitimacy and longevity of constitutions in various nations. The conference will also bring together scholars who, at present, are working on constitutional histories of single jurisdictions—with the expectation that conversations among these scholars will allow for sharing of methodologies and point also to fresh areas of research that may transcend national boundaries. In addition, the conference has relevance to the task of judging. In some nations, notably the United States, constitutional history plays an important and sometimes decisive role in the resolution by courts of questions of constitutional law. The conference will take up the place of constitutional history in constitutional adjudication. By comparing the practices of courts around the world, the conference will trace the movement (or not) of constitutional history from the academy to the courthouse and examine the risks and benefits of modern practices.

Papers from the conference will be published in the *University of Illinois Law Review*.

Conference Schedule

Tuesday, April 12, 2016

Conference Chicago at University Center, Loop/River Room

8:30-9:00 **Continental breakfast available**

9:00-10:30 **Welcome:** **Jason Mazzone**
University of Illinois College of Law

Keynote: **Justice Rosalie Silberman Abella**
Supreme Court of Canada

10:30-11:00 **Coffee break**

11:00-1:00 **Panel I—*Foundations***

Justin Collings

J. Reuben Clark Law School, Brigham Young University

- *What Should Comparative Constitutional History Compare?*

Sanaa Al-Sarghali

Lancaster University Law School

- *An (Un)Constitutional Hangover? An Analysis of the Current Palestinian Basic Law in Light of Palestine's Constitutional Text in Heritage*

Bui Ngoc Son

Center for Asian Legal Studies, National University of Singapore
Faculty of Law

- *The Global Origins of Vietnam's Constitutions: Text and Context*

1:00-2:30 **Buffet lunch**

2:30-4:00 **Panel II—*Interpretation***

Margit Cohn

Faculty of Law, The Hebrew University of Jerusalem

- *When, and Where, Does History Begin?: Collective Memory, Selective Amnesia and the Treatment of Asylum Seekers in Israel*

Noura Karazivan

University of Montreal, Faculty of Law

- *The Role of History in the Interpretation of the Canadian Constitutional Structure*

6:00 pm

Reception

6:45 pm

Dinner

Remarks by Dean Vikram Amar

University of Illinois College of Law

Cresthill Room – 3rd Floor

The Palmer House

17 E. Monroe Street

Chicago, IL 60603

Wednesday, April 13, 2016

Conference Chicago at University Center, Loop/River Room

8:30-9:00

Continental breakfast available

9:00-10:30

Panel III—*Rights*

Jud Mathews

Penn State Law

- *The State Action Doctrine and the Logic of Constitutional Containment*

Conor O'Mahony

University College Cork

- *Marriage Equality in the US and Ireland: How History Shaped the Future*

10:30-11:00

Coffee break

11:00-1:00

Panel IV—*Change*

Francesco Biagi

University of Bologna School of Law; Max Planck Foundation for International Peace and the Rule of Law; Center for Constitutional Studies and Democratic Development, Johns Hopkins University

- *Plebiscite: An Old but still Fashionable Instrument*

Ernest Caldwell

University of London

- *Widening the Constitutional Gap in Taiwan?: Democratization, Constitutional Reform and the Decline of the Control Yuan*

Anna Fruhstorfer

Humboldt University

- *Paradoxes of Constitutional Politics in the Post-Soviet Space*

1:00-2:30

Buffet lunch

2:30-4:30

Panel V—*Constraint*

Fabian Duessel

Tuebingen University

- *Human Rights in the British Constitution: A Prisoner of History?*

Michael Hein

Humboldt University

- *Entrenchment Clauses in the History of Modern Constitutionalism*

Čarna Pištan

University of Bologna School of Law; Center for Constitutional Studies and Democratic Development, Johns Hopkins University

- *From Balkanization to Yugonostalgia: The Dissolution of the Socialist Federal Republic of Yugoslavia*

4:30-5:00

Closing