Course title: Comparative Public Law/Systems of Governance			
Course code: MPL 151	**No. of credits:** 3	**L-T-P:** 45-0-0	**Learning hours:** 45
Pre-requisite course code and title (if any): None			
Department: Centre for Post Graduate Legal Studies			
Course coordinator: Dr Manini Syali	**Course instructor:** Dr Manini Syali		
Contact details: manini.syali@terisas.ac.in			
Course type: Core	**Course offered in:** Semester 1		

Course description:

Comparative public law as a discipline has assumed renewed significance especially after the cold war with many states in the erstwhile communist block embarking on framing new constitutions. The purpose of this course is to provide a critical understanding of the main issues, trends and methods in comparative public law. The main areas covered in the course are: Constitutionalism, separation of powers, rights, amendment, and emerging trends and issues. An understanding of the subject would help the students to better appreciate a particular legal system in the wider socio-political context in which it operates. The relevance of this discipline has increased with globalization wherein legal ideas, governance structures and even legal terminologies migrate. An attempt is made not to reduce the course to a mere description of select documents and important judicial decisions, but to use the richness of social science literature and methods in the analysis of various topics.

Course objectives:

1. To provide an overview of the scope, uses and methods of comparative public law.
2. To address key areas of comparative public law like separation of powers, rights, and judicial review to better understand and appreciate one's own legal system
3. To critically analyse new constitutional movements that are changing the boundaries of constitutionalism and constitutional systems.

Course contents

S.No.	Topic	L	T	P
1	**Comparative Public Law: Overview, uses and methods** Uses, purposes and challenges of comparative law Different methodological approaches: Classificatory, historical, normative, functional, and contextual. The evolving boundary between public and private law Place of constitutional law and administrative law in a legal system	5	0	0
2	**Constitutions: Making, functions and typology** Constitution making: Constituent power, process and the question of inclusiveness, and substance. Functions: Creating organs, conferring power and protection of individual liberties Typology: On the basis of legal character and on the basis of expression of political ideals **Sources** Constitutionalism	6	0	0
3	**Separation of power: Horizontal and vertical** Different forms of government: presidential, parliamentary, hybrid systems Federal and unitary states; Concept of quasi federalism The changing role of the state, emergence of the regulatory state	6	0	0
4	**Rights** Similarities and differences Content and scope of rights in different constitutional cultures Overlapping rights Cross-jurisdictional variance in realisation of rights Security of state and individual liberties.	5	0	0
5	**Constitutional Interpretation and Judicial review** Courts as the authoritative interpreter of the constitution Origins of judicial review, Judicial Activism Limitations	6	0	0

6	**Amendment of the Constitution** Different methods Limitations, Basic structure theory	6	0	0
7	**Emerging trends and issues** Internationalization of constitutional law: Driving forces, divergent practices and criticisms Militant democracy: concept, history, varieties and contestations On-going projects: Global Administrative Law; Global Constitutionalism; Transnational Law	8	0	0
	Total	42	0	0

Evaluation criteria:

1. Minor Test: 25%
2. Class Discussion: 10%
3. Presentation: 25%
4. Major Test: 40%

Learning outcomes:

On completion of this course, the students would:

1. Be able to understand the similarities and differences between leading legal traditions in key areas like separation of powers, protection of rights and the role of judiciary
2. Be familiar with the methodology of comparative public law
3. Be able to use comparative methodology in public law analysis

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Materials:

Textbooks

Rosenfeld, M. and Sajo, A. (2012). The Oxford handbook of comparative constitutional law. Oxford: Oxford University Press.

Rose-Ackerman, S. and Lindseth, P. L. (2010). Comparative Administrative Law. Cheltenham: Edward Elgar.

Suggested Readings

Books

Menski, W. (2006). Comparative law in a global context: The Legal Systems of Asia and Africa. Cambridge: Cambridge University Press. Ch. 1.

Ginsburg, T. (2003). Judicial review in new democracies: Constitutional courts in Asian cases. Cambridge: Cambridge University Press. Chs. 1 & 8.

Chemerinsky, E. (2015). Constitutional law: Principles and policies. 5th Ed. New York: Aspen Law & Business. Chs. 1 & 2.

Singh, M. P. (2011). Comparative constitutional law. 2nd Ed. Lucknow: Eastern Book Company.

Articles

Hirschl, R. (2013). From comparative constitutional law to comparative constitutional studies. International Journal of Constitutional Law, 11 (1), 1-12.

Tushnet, M. (1999). The possibilities of comparative constitutional law. Yale Law Journal, 108, 1225-1309.

Tushnet, M. (2013). Constitution making: An introduction. Texas Law Review, 91, 1983-2015.

Baranger, D. and Murray, C. (2013). Systems of government. In Tushnet, M., Fleiner, T., and Saunders, C.(Eds.), Routledge Handbook of Constitutional Law. Oxon: Routledge.

Chibub, J. A., Elkins, Z., and Ginsburg, T. (2013). Beyond presidentialism and parliamentarism. British Journal of Political Science, 44 (3), 1-30.

Kennedy, D. (1982). The stages of the decline of the public/private distinction. University of Pennsylvania Law Review, 130, 1349-1357.

Alexander, L. and Schauer F. (1997). On Extrajudicial Constitutional Interpretation. Harvard Law Review, 110 (7), 1359-1387.

Moran, M. (2002). Understanding the Regulatory State. British Journal of Political Science, 32 (2), 391-413.

Additional information (if any):

Student responsibilities: Students are expected to actively participate in the class discussion. In addition, students are expected to write response papers to some articles discussed in the class**.**

Course reviewers:
Dr. Vishnu Konoorayar, Max Planck Institute for European Legal History.
Dr. Jasmine Joseph, The West Bengal National University of Juridical Sciences. Kolkata.