Comparative constitutional law was seen by John W. Burgess, the man who founded the first political science department in the United States, as the core of the discipline. In the ensuing years, institutional analyses were the staple of the discipline. In time, though, a “behavioral revolution” turned the attention from institutions to voting and other manifestations of political behavior. In the comparative field, “political development” assumed center stage, especially as comparativists concentrated on the newly independent nations of Asia and Africa. Constitutional law, and public law generally, receded into a neglected corner of the discipline.

In recent years, however, there has been a resurgence of interest in the study of public law, and in comparative constitutional law especially. Fueled by the new institutionalism, a belated recognition that courts handle a good bit of public policy (e.g., criminal justice) in all political systems, a revived interest in natural law in political theory, and the practical issues surrounding designing new constitutions for the post-communist regimes, the area has blossomed. Law schools, too, have raised the profile of comparative constitutional law in their curricula, as even the justices of the United States Supreme Court now cite foreign cases in their decisions.

This is a political science course, not a law school course. Our roots are, therefore, decidedly in comparative politics. All polities, accordingly, are within our purview. Our goal is to survey the major issues facing scholars who study comparative constitutional law and evaluate how they shed light on the major theoretical questions in comparative politics.

Prerequisites/corequisites:

There are no special prerequisites for this course. Some background in either comparative politics or public law would be helpful but is not necessary.

Required texts:


**Requirements:**

There will be three elements of evaluation: 1) A major research paper, 30%; 2) Class participation 30%; and 3) A final exam (40%).

**Grades:**

The grading will be on the 10 point breaks.

**Class schedule and readings**

August 20  
Introduction

August 27  
Law versus political science


September 3  
Labor Day holiday

September 10  
The historical and conceptual foundations of constitutionalism


September 17  
The religious foundations of constitutionalism

September 24  Constitutionalism and democracy


October 1  Judicial review


October 8  Rational choice theory and constitutionalism


October 15  Constitutional engineering


October 22  Constitutions in emerging democracies

Ulrich Preuss, Constitutional Revolution (Atlantic Highlands, NJ: Humanities Press, 1995), Chap. 1. (Translated by Deborah Schneider)

October 29  Case study: India


November 5  Religious liberty


November 12  Federalism


November 19  Emergency powers


November 26  Case study: Germany


December 3  Final exam