

9th Annual meeting 2015 of the International Association of Law Schools

Developing Approaches and Standards for a Global Legal Education

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Constitutional Law Study Group

Prof. Barbara Randazzo

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Background

My experience as a professor of Constitutional Law has been supplemented by working as a clerk in the Italian Constitutional Court, as a lawyer specialized in constitutional and European law and as a legal advisor of two Italian Regions (Lombardy and Marche).

A. Knowledge

The object of constitutional law is particularly wide because it forms the basis of legal order as a whole.

A substantive understanding of the constitutional law requires at least the following core elements:

- a knowledge of the origin, historical evolution and present structure of the principles that rule the relations between individuals, social groups and public authorities (human dignity, freedom, equality, solidarity, sovereignty, democracy, etc.); the relationship between authorities (separation of powers, *checks and balances*) both horizontally (political powers and guarantee powers) and vertically (state, regional and local bodies);

This kind of knowledge call into question constitutional concept, such as sovereignty and citizenship, that were traditionally referred to national legal systems, requiring to be reconsidered in the light of the impact of globalization.

- a detailed knowledge of the political institutions (Parliament, Government, Head of State) and of the relationships between them (method of composition, components' status, prerogatives, competences);

- a knowledge of the bodies called upon to ensure the rule of law and the compliance with the constitution: the judiciary and Constitutional court (components' status, prerogatives, competences, etc.), as well as of the different ways to access to the courts and the rules of procedure;
- a knowledge of the articulated system of sources of law in the national legal order as supplemented by the sources of European law (EU) and international law;

This kind of knowledge implies the analysis of the criteria by which can be solved the contradictions between rules produced by different sources and at different level (national and supranational).

- a knowledge of the rights and fundamental freedoms protected by the Constitution, and of the principles about constitutional duties, in particular the fiscal one;

This kind of knowledge required the analysis of techniques and instruments for national and supranational protection of the same rights in a multilevel perspective.

B. Skills

In addition to the capacities indicated in the Declaration of Singapore (research skills, reading and critical analysis of the legislation and case law), students should be able not only to interpret legal texts, but also to resolve, according to the criteria in force, the contradictions between different provisions (laws and regulations, state laws and regional laws) and between provisions coming from internal sources and the European or international ones.

Students should acquire the ability to analyze the way of working of the different public institutions (national, European and international), having a full awareness of the historical and present contexts.

Students should be able to solve cases that involve different values and interests, all worthy of being protected, searching for a fair balance between them applying the criterion of reasonableness.

Students should acquire the ability to understand the way in which constitutional principles affect the various areas both of public and private law.

C. Values

In the fields of constitutional law the ethical values assume a decisive importance since it involves the basic principles that rule civil society, and is affected by the anthropological conceptions in order to define fundamental rights and legal obligations.

The attention to the ethical principles and the social background becomes essential when it comes to apply rules, such as the constitutional ones, that normally leave a wide scope for discretionary interpretation and application.

Submission for Study Group

Background

Prof (Dr) C.A.Gurudath

Dean - Academics and Director School of Law,
Jagran Lakecity University, Bhopal, India.

In academics for more than three decades. Taught under graduate / post graduate and Research students. 3 books in credit. Has rich experience in legal research, administration and organizing national and international events. Been associated with number of institutions of high reputation in different capacities. Has done significant work on Constitution and gender issues.

Constitution –A value document for good governance and social transformation

A Constitution reflects maturity level of any political system and its commitment towards its people. Constitutionalism and Rule of Law have been viewed as potential regulatory values which ensures accountability, transparency, and a responsible power holder. It is often viewed as an outcome of political / social philosophy a society has adopted.

However, divergent expressions, structure and tenor of the Constitutions of the states do not defeat the fundamental and universal aspirations of common man. Today's challenge is protecting common man from abuse of power, corruption and unequal treatment. Filling the gap between Power holder and addressee is need of the hour. Creation of a good social atmosphere for overall welfare of society devoid of gender /racial/religious discrimination is legitimate expectation of human race. It is possible only when there is good governance. Thus Constitutions ensure not only good governance, shall become strong instrument of social change. History is before us on how robust Constitutions have effected radical social change.

Glocalisation, along with IT revolution has empowered the people to know the developments across the world. Any society today, is open for scrutiny across the world. On the other hand, one can adopt best practices of other constitutional system.

Suggestive learning outcome:

- Able to understand common values and aspirations of different Constitutions
- Will be able to know functional aspects of Constitutions along with its instrumentalities.
- Can gain skills of interpretation of conflicting values along with established principles.

- Will be able to do comparative analysis which is an essential part of pedagogy consistently developed in contemporary legal education all over the world.
- Will learn different political and legal systems of different states which helps to take up global legal practice.
- Will understand the primary ethical values of humanism on which the whole legal systems are built over the period of time.
- May be possible to grow a potential and conscientious lawyer who will work for common man.

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Developing Approaches and Standards for a Global Legal Education

Advocate Hlako Choma

Senior lecturer and Head of Department: Public Law at University of Venda, South Africa

Teaching Constitutional Law

Background

I am teaching Constitutional Law and authored several books in Constitutional Law. And admitted as an Advocate practicing law as such. I also sit as a Commissioner for Small Claims Court.

The relevance of Constitutional Law

Constitutional Law is one of the most important subjects and form part of the Law Degree curriculum. The constitution is the supreme law of many countries around the world, law or conduct inconsistent with the constitution is invalid, and the obligations imposed by the constitution should be fulfilled. Students must study both the protection of individual and collection rights through the constitutional Bill of Rights and the law of state organization in the country. In Constitutional Law, the first section concentrates on general principles of Constitutional Law and on the Bill of Rights whereas the focus of the second section is on issues pertaining to state organization.

Specific Learning outcomes

After students have completed the course, that is, Constitutional Law, students should be able to:

- Define Constitutional Law and be able to explain its place both in the national and international legal system.
- Critically discuss the concept of constitutionalism in the country context and the legislative supremacy
- Interpret the constitution in accordance with the recognized methods of constitutional interpretation.

- Know the fundamental civil and political rights in the Bill of Rights and the respective interpretative approaches adopted by Constitutional Court
- Understand the relationship between indigenous Law, and Human Rights and Constitution.
- Understand the relevance of socio-economic rights entrenched in the constitution.