

Principles of Constitutional Law (A-L)

The course unit in “Principles of Constitutional Law” is made up of two distinct Modules, the first taught by Professor Sergio Dellavalle, the second by Professor Riccardo Perona.

Module I covers the first half of the course unit. It provides a basic understanding of the foundations of constitutional law, in particular with reference to its main contents both in Western and in some non-Western legal and historical traditions. It also addresses the question of the constitutional dimension of EU law as well as of cosmopolitan law, thus contouring the most challenging new developments of constitutionalism beyond the borders of the nation state.

Module II covers the rest of the course unit and provides some deepening and further developments of the general contents examined in the first part, concentrating on the different features of the concept of legal (and constitutional) principle and exploring its connection with the standard of legal reasonableness.

A final exam will be held to evaluate both Modules.

I. Overview

Module I

The contents of the concept of constitution.

The Western constitutional tradition: autocracy vs. democracy.

The division of powers as the first means for the limitation and control of public power.

The main forms of government: parliamentary system, presidential system, and semi-presidential system.

Federalism (and regionalism) as the second means for the limitation and control of public power.

The taxonomy of fundamental rights: civil, political and social rights; individual and collective rights; first, second and third generation rights. The rights of non-human beings.

Electoral systems: plurality system; majoritarian system; proportional system.

The nation as the community of citizens vs. the nation as expression of ethnicity.

Systems of constitutional adjudication; competences of constitutional courts.

Non-Western constitutional traditions: East-Asian constitutions; Islamic Constitutions; One-Party Constitutions.

Postnational constitutionalism: supranational organizations; global governance; cosmopolitan constitutionalism; global economic constitutions.

Module II

1) The concept of legal principle and its relevance in the legal and constitutional theory.

Constitutional principles and the concept of the Rule of Law and legal reasonableness in traditional and modern constitutionalism.

The doctrine of principles and the debate concerning the specificity of constitutional interpretation.

2) The use of constitutional principles and reasonableness in the judicial review of legislation.

General features and related principles.

Basic developments of the reasonableness control in the common law and civil law traditions.

3) Constitutional principles and the protection of fundamental rights: rationality and legal subjectivity. Fundamental rights and human rights. Generations of rights.

Rights and standing of non-human beings.

Rationality and new technologies.

II. Aims

Module I of the course unit provides a basic understanding of the foundations of constitutional law in national, comparative, supranational and international perspective. The course unit starts with the presentation of the concept of constitution in the Western legal, political and philosophical tradition. In doing so, it addresses its main features, like division of powers, forms of government, federalism, fundamental rights, electoral systems, and constitutional adjudication. In a second step it expands the analysis to non-Western constitutional patterns, such as Islamic constitutions and one-party constitutions. Thereby, it explores particularities, main elements and conflicts that might arise in constitutional law from a comparative perspective. Finally, it focuses on the most advanced frontier of constitutional law, namely on the development of constitutionalism beyond the borders of the nation state. In particular, it concentrates on the question as to whether the establishment of new continental or even global forms of legal and institutional integration is destined to change the traditional concept of constitution.

Module II of the course unit addresses the concept of legal (and constitutional) principle and its connections with the use of reasonableness as a legal standard. In this sense, it studies the role played by constitutional principles and reasonableness under different perspectives: theoretical and doctrinal (in the framework of the Rule of Law and the debate on the specificity of constitutional interpretation), as well as practical (the use of principles and reasonableness within the judicial review of legislation). In the last part, the unit focuses on the role played by principles and legal reasonableness in connection to some (relatively) recent topics in the legal debate, especially the issue of legal subjectivity.

III. Learning Outcomes

After attending this course unit, the students are expected:

- to have a good knowledge of the main contents of the course unit;
- to have developed a keen awareness of the existence of different constitutional traditions and of their most specific characteristics;
- to have a sufficient understanding of the most advanced frontiers of constitutionalism, also within the post-national constellation;
- to be able to compare different constitutional texts, traditions and systems, taking into special account how they develop specific issues, concepts, principles and standards.

IV. Employability Skills

Upon completion of the course unit the students are expected to have:

- improved their critical thinking;
- developed better analytical skills;
- developed a stronger interest in research and critical analysis.

V. Assessment Methods

A written will be held to evaluate both modules.

The exam will be held using an online form (created with Google Forms).

On the officially scheduled day ("Appello"), students will be required to attend the exam in presence at the University with their personal computer. The link to access the online form will be shared at the beginning of the session and the students will have two hours to submit their answers.

Students will be able to access the form only by using their institutional UniTo email account (@edu.unito.it). The form will contain ten (10) true-false/multiple-choice questions, as well as two (2) essay questions, concerning all the contents and materials of Module I and Module II. Each essay question will have a size limit of 400 words.

After answering the questions, students will have to click on "submit" ("invia") to complete the exam. Any submission after the deadline will not be considered. Students will be able to submit their answers just one time, so answers should be chosen carefully before submission.

VI. Teaching Methods

Along with more traditional lectures, the course encourages the interaction among the students as well as between the students and the lecturers.

VII. Teaching material

Module I:

1. a PDF file, entitled "Dellavalle - Principles of Constitutional Law - Module I", with the contents of Module I;
2. a PowerPoint presentation, entitled "Dellavalle - Principles of Constitutional Law - Module I – Slides", containing slides with the main contents of Module I that will be used during the lectures;
3. nine (9) PowerPoint presentations with audio, entitled "Dellavalle - Principles of Constitutional Law - Module I - Part I [to Part IX] - Slides + Audio", which integrate the slides above mentioned under 2) with the content of the PDF file above mentioned under 1).

Module II:

1. a set of nine (9) scientific articles covering the essential issues addressed in the Module;
2. a set of reading guides designed to help the student focus on the key aspects of the most complex articles;
3. students are also strongly encouraged to attend the lectures, that will provide the conceptual tools necessary to fully understand the articles and their connections; recordings of the lectures will be made available.

All teaching materials can be downloaded either from Campusnet or from Moodle.

VIII. Schedule

Module I:

Class 1	19 February 2024	Introduction. The contents of the concept of constitution; the Western constitutional tradition. The principle of the division of powers and the forms of government (Dellavalle - Principles of Constitutional Law - Module I - Part I - Slides + Audio).
Class 2	20 February 2024	The parliamentary system (Dellavalle - Principles of Constitutional Law - Module I - Part II - Slides + Audio).
Class 3	21 February 2024	The presidential system, and the semi-presidential system (Dellavalle - Principles of Constitutional Law - Module I - Part II - Slides + Audio).
Class 4	26 February 2024	Federalism and regionalism (Dellavalle - Principles of Constitutional Law - Module I - Part III - Slides + Audio).
Class 5	27 February 2024	The taxonomy of fundamental rights: civil, political and social rights (Dellavalle - Principles of Constitutional Law - Module I - Part IV - Slides + Audio).
Class 6	28 February 2024	Individual and collective rights; first, second and third generation rights. The rights of non-human beings (Dellavalle - Principles of Constitutional Law - Module I - Part IV - Slides + Audio).
Class 7	4 March 2024	Electoral systems: plurality system; majoritarian system; proportional system (Dellavalle - Principles of Constitutional Law - Module I - Part V - Slides + Audio).
Class 8	5 March 2024	The nation as the community of citizens vs. the nation as expression of ethnicity. Systems of constitutional adjudication; competences of constitutional courts (Dellavalle - Principles of Constitutional Law - Module I - Part VI - Slides + Audio).
Class 9	6 March 2024	Non-Western constitutional traditions: East-Asian constitutions; Islamic constitutions; One-party constitutions (Dellavalle -

		Principles of Constitutional Law - Module I - Part VII - Slides + Audio).
Class 10	11 March 2024	Postnational constitutionalism I: supranational legal and institutional integration, with particular reference to the European Union – Part I (Dellavalle - Principles of Constitutional Law - Module I - Part VIII - Slides + Audio).
Class 11	12 March 2024	Postnational constitutionalism I: supranational legal and institutional integration, with particular reference to the European Union – Part II (Dellavalle - Principles of Constitutional Law - Module I - Part VIII - Slides + Audio).
Class 12	13 March 2024	Postnational constitutionalism II: global governance; cosmopolitan constitutionalism; global economic constitutions – Part I (Dellavalle - Principles of Constitutional Law - Module I - Part IX - Slides + Audio).
Class 13	18 March 2024	Postnational constitutionalism II: global governance; cosmopolitan constitutionalism; global economic constitutions – Part II (Dellavalle - Principles of Constitutional Law - Module I - Part IX - Slides + Audio).

Module II:

Class 14	25 March 2024	The concept of legal principle and its relevance in the legal and constitutional theory.
Class 15	26 March 2024	Constitutional principles and the concept of the Rule of Law and legal reasonableness in traditional and modern constitutionalism.
Class 16	27 March 2024	The doctrine of principles and the debate concerning the specificity of constitutional interpretation.
Class 17	3 April 2024	Conclusion of the previous topic.
Class 18	8 April 2024	The use of constitutional principles and reasonableness in the judicial review of legislation. General features and related principles.
Class 19	9 April 2024	Conclusion of the previous topic.
Class 20	10 April 2024	Basic developments of the reasonableness control in the common law and civil law traditions.
Class 21	15 April 2024	Conclusion of the previous topic.

Class 22	16 April 2024	Constitutional principles and the protection of fundamental rights: rationality and legal subjectivity. Fundamental rights and human rights. Generations of rights.
Class 23	17 April 2024	Rights and standing of non-human beings.
Class 24	22 April 2024	Rationality and new technologies.
Class 25	23 April 2024	Conclusion of the previous topic.
Class 26	24 April 2024	Conclusion of the course.

Principles of Constitutional Law (M-Z)

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VIII. Schedule

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Class 1	22 February 2024	Introduction. The contents of the concept of constitution; the Western constitutional tradition. The principle of the division of powers and the forms of government (Dellavalle - Principles of Constitutional Law - Module I - Part I - Slides + Audio).
Class 2	23 February 2024	The parliamentary system, the presidential system, and the semi-presidential system (Dellavalle - Principles of Constitutional Law - Module I - Part II - Slides + Audio).
Class 3	29 February 2024	Federalism and regionalism (Dellavalle - Principles of Constitutional Law - Module I - Part III - Slides + Audio).
Class 4	1 March 2024	The taxonomy of fundamental rights: civil, political and social rights; individual and collective rights; first, second and third generation rights. The rights of non-human beings (Dellavalle - Principles of Constitutional Law - Module I - Part IV - Slides + Audio).
Class 5	7 March 2024	Electoral systems: plurality system; majoritarian system; proportional system (Dellavalle - Principles of Constitutional Law - Module I - Part V - Slides + Audio).
Class 6	8 March 2024	The nation as the community of citizens vs. the nation as expression of ethnicity. Systems of constitutional adjudication; competences of constitutional courts (Dellavalle - Principles of Constitutional Law - Module I - Part VI - Slides + Audio).
Class 7	14 March 2024	Non-Western constitutional traditions: East-Asian constitutions; Islamic constitutions; One-party constitutions (Dellavalle - Principles of Constitutional Law - Module I - Part VII - Slides + Audio).

Class 8	15 March 2024	Postnational constitutionalism I: supranational legal and institutional integration, with particular reference to the European Union (Dellavalle - Principles of Constitutional Law - Module I - Part VIII - Slides + Audio).
Class 9	21 March 2024	Postnational constitutionalism II: global governance; cosmopolitan constitutionalism; global economic constitutions (Dellavalle - Principles of Constitutional Law - Module I - Part IX - Slides + Audio).

Module II:

Class 10	4 April 2024	The concept of legal principle and its relevance in the legal and constitutional theory.
Class 11	5 April 2024	Constitutional principles and the concept of the Rule of Law and legal reasonableness in traditional and modern constitutionalism.
Class 12	11 April 2024	The doctrine of principles and the debate concerning the specificity of constitutional interpretation.
Class 13	12 April 2024	The use of constitutional principles and reasonableness in the judicial review of legislation. General features and related principles.
Class 14	18 April 2024	Basic developments of the reasonableness control in the common law and civil law law tradition.
Class 15	19 April 2024	Conclusion of the previous topic.
Class 16	26 April 2024	Constitutional principles and the protection of fundamental rights: rationality and legal subjectivity. Fundamental rights and human rights. Generations of rights. Rights and standing of non-human beings.
Class 17	2 May 2024	Rationality and new technologies.
Class 18	3 May 2024	Conclusion of the previous topic and of the course.