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Senior Lecture in Public Law
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Title

Current issues and problems with federalism

Description of the workshop contents

The module considers select models of federal state in comparative perspective. While the primary analytical lense is that of constitutional law we will draw on the insights of other disciplines, especially political science and history. After a “scene setting” opening seminar (considering the classic federal models of the USA, Australia and Canada) we will consider the basic constitutional building blocks of a federal system. Having identified the classic characteristics of a federal system we will turn to a comparative case study of two countries (the United Kingdom and Spain) which have adopted constitutional systems with some federal characteristics, but which do not refer to themselves as “federations”. Consideration of these two countries will also raise the question of their membership of the European Union (and questions of multilevel governance). In the fourth session we consider the role of the law and apex courts in the formation and ongoing operation of federal systems, before finally turning to circumstances in which federations may come to an end (perhaps by incremental steps, perhaps in more dramatic and rapid circumstances, or perhaps by reforming themselves into some new, as yet unnamed model of state). Candidates taking the course will be very welcome to suggest additional comparative examples during the seminar sessions.

Objectives

- To understand the essential characteristics of the “federal idea”, its possibilities *and* its limitations.
- To understand the role of constitutional law in the construction and operation of federal models.
- To understand the dynamic of change (and the role of law in that change) within a federal system, including handling questions of secession.

Programme (5 headlines)

1. Federalism as a concept in historical perspective – classic models: the USA, Australia and Canada.
2. The constitutional structures of modern federalism: legislatures, executives, and judiciaries.
3. “Non-federal” federations (quasi, or pseudo federations), a comparative case study: devolution in the United Kingdom and the Spanish system of autonomous communities, including the European dimension.
4. The role of apex courts (common law supreme courts, and continental constitutional courts) in the operation of federal systems.
5. The limits of federalism and the question of secession.

Requested reading (5 references maximum)

Requested reading/texts

1. Aja, E *El Estado Autonomico: Federalismo y Hechos Diferenciales* 2ed (2003, Alianza Editorial)
2. Deacon R, and Sandry, A, *Devolution in the United Kingdom* (2007, University of Edinburgh Press)
3. Hazell, R (ed) *Constitutional Futures Revisited: Britain’s Constitution to 2020* (2008, Palgrave)
4. Tierney, S *Constitutional Law and National Pluralism* (2005, Oxford University Press)
5. Watts, R *Comparing Federal Systems* 3ed (2008, McGill-Queens University Press)



Additional reading materials

Burgess, M *Comparative Federalism, Theory and Practice* (2006, Routledge)

Keating, M *Plurinational Democracy: Stateless Nations in a Post-Sovereignty Era* (2001, Oxford University Press)

Moreno, L, *The Federalization of Spain* (2001, Routledge)

Online resources

Devolution bibliography, University of Aberysthwyth: <http://www.aber.ac.uk/en/is/subject/law/devolution/>

Forum of federations (Ottawa, Canada): <http://www.forumfed.org/en/index.php>

Centre for Studies on Federalism (Turin): <http://www.csfederalismo.it/index.php/en>

Further article and online references will be provided with the course materials either shortly before, or during the week of seminars.