

The Docket

The Newsletter of the IPSA Research Committee for Comparative Judicial Studies (R.C.#9)

June 2004
Issue 40

In this Issue

1-2 Last Interim

Meeting: London, England
January 29-30, 2004

3 Future Meetings:

Call for Papers:

Interim Meeting in Naples,
Italy (January 27-28, 2005)

IPSA World Congress in
Fukuoka, Japan (July 9-13,
2006)

4-6 Call for Authors:

RC#9 Volume in IPSA's
"The World of Political Science"
book series

The Research Committee for Comparative Judicial Studies (IPSA RC #9) is one of 49 active research committees of the International Political Science Association. Our purpose is to promote scholarly work on law, courts, and judicial processes from a comparative perspective. Ultimately, we seek to bring the study of the various dimensions of judicial systems within the mainstream of comparative political research. RC #9 encourages comparative research on judicial systems and the participation of scholars in our program regardless of the disciplinary origins and commitments of those who do the research.

For inquiries regarding this newsletter, contact Michael Tolley, m.tolley@neu.edu

Interim Meeting of R.C. #9 London School of Economics London, England

Host: Dr. Kate Malleison
Kate@mmasskm.demon.co.uk

Date: January 29-30, 2004
Theme: Judicial Selection

Thursday, January 29th

Panel I: Judicial Selection Panels

Chair: Marty Edelman
SUNY Albany
Me354@csc.albany.edu

"Creating a Judicial Appointments Commission:
Which Mode Works Best?"

Kate Malleison
Law Department
London School of Economics
kate@mmasskm.demon.co.uk

"The Scottish Judicial Appointments Board: New
Wine in Old Bottles"

Alan Paterson, University of
Strathclyde
prof.alan.paterson@strath.ac.uk

"Judicial Selection in Latin
America Following the 1990s
Reforms: The Role of the
National Judicial Council

in Argentina, Mexico and
Peru"

Jodi Finkel
Loyola Marymount Univ.
Jodifinkel@yahoo.com

Panel II: Judicial Selection Issues in the U.S.

Chair: Maria Elisabetta de-
Franciscis
University of Naples
medefra@tin.it

"American Judicial Account-
ability Since 1789"

Matthew Woessner
Penn State Harrisburg
mcw10@psu.edu

"Legal Controversies over
Federal Judicial Selection in
the United States: Breaking
the Cycle of Obstruction and
Retribution over Judicial Ap-
pointments"

Michael Tolley
Northeastern University
m.tolley@neu.edu

Panel III: Executive Role in Judicial Selection

"Executive Subversion of
Judicial Service Committees:
The Zimbabwe Experience"

Derek Matyszak
University of Zimbabwe
dmatyzsak@esanet.zw

“Bureaucratic Selection with Partisan Results: The Italian Magistrature”

Mary L. Volcansek
Texas Christian University
m.volcansek@tcu.edu

“The Selection and Appointment of Indian Supreme Court Judges”

George H. Gadbois, Jr.
University of Kentucky
GADBOISGH@aol.com

“Judicial Selection in France”

Marie Provine
Arizona State University
Marie.Provine@asu.edu
Antoine Garapon
Secretary General, Institut
des Hautes Etudes sur la Justice
Paris
garapon@club-internet.fr

Panel IV: The Politics of Judicial Selection

“Gender on the Agenda: How the Gender of Judges Becomes a Political Issue”

Sally Kenney
University of Minnesota
skenny@hhh.umn.edu

“Judicial Independence and the New International Jurisprudence: The Role of Judicial Selection in the ICC”

Galya Benarieh Ruffer
DePaul University
gruffer@depaul.edu

“Judicial Politics and the Politics of Selecting Judges in Israel”
Menachem Hofnung
Hebrew University of Jerusalem
msmh@mscc.huji.ac.il

“The Politics of Judicial Selection in Egypt”

Mahmoud Hamad
University of Utah and University of Cairo
U0308775@utah.edu

RC#9 Business Meeting
Presiding: Michael Tolley

Friday, January 30th

Panel V: Judicial Selection: New Trends

Chair: Peter Russell
University of Toronto
Phruss@aol.com

“Judicial Selection for International Courts: Toward Common Principles and Practices”

Philippe Sands and Ruth Mackenzie
University College London
p.sands@ucl.ac.uk

“The Judicial Appointments in Post-Charter Canada: A System in Flux”

F.L. Morton
University of Calgary
Morton@ucalgary.ca

“A Judiciary in Transition: Reflections on the Selection of Judges in Namibia”

Sufian Hemed Bukurura
University of Durban-Westville

Keynote Address: “The New Judicial Appointments Commission in England”

Lord Woolf, The Lord Chief Justice of England and Wales

Panel VI: Judicial Selection in U.S. Cities and States

“Rethinking the Selection of State Supreme Court Justices”

G. Alan Tarr
Rutgers University
cscs@camden.rutgers.edu

“Selection of Judges in New York City”

Daniel Kramer
Emeritus Professor of Political Science
College of Staten Island
CUNY
dkramer1@si.rr.com

Panel VII: Judicial Selection in Established Democracies

“Judicial Appointments and Promotion in Israel: Constitution, Law and Politics”

Eli Salzberger
University of Haifa
salzberg@research.haifa.ac.il

“Judicial Recruitment in Russia: Theory and Practice”

Alexei Trochev
atrochev@hotmail.com

“The Selection Process of Constitutional Court Judges in Germany”

Christine Landfried
University of Hamburg
landfried@sozialwiss.uni-hamburg.de

“An Equilibrium Elite: Selection and Composition of the Dutch Judiciary”

Leny de Groot-van Leeuwen
L.degroot@jur.kun.nl

Future Meetings:

Call for Papers

Interim Meeting— Naples, Italy January 27-28, 2005

Professor Maria Elisabetta deFranciscis of the University of Naples will be hosting this meeting. The theme of this meeting is “Emerging Paradigms of Rights Protection.” Paper and panel proposals devoted to the following topics would be most welcome: the protection of rights in the common law and civil law worlds, protection of rights in parliamentary systems and constitutional democracies, competing models of judicial review and the protection of rights, the tension between rights and increased security during times of national emergency and the threat of terrorism, the use of ombudsmen and other extra-judicial protection of rights, and the judicial enforcement of civil/political rights versus socio-economic rights.

Please submit your proposals to Professor Michael Tolley by email (m.tolley@neu.edu) or regular mail (303 Meserve Hall, Northeastern University, Boston, MA 02115 USA) by **September 15, 2004**.

The program and information about the meeting site will be sent to participants in October 2004.

IPSA World Congress— Fukuoka, Japan July 9-13, 2006

The most significant change in the procedures for the participation of Research Committees in the organization of the next IPSA World Congress is the early deadline for the submission of completed panels. Each Research Committee has the obligation to organize a minimum of two and a maximum of four panels and submit the completed panels with paper titles, authors, chairs and discussants by **December 31, 2004**. The titles and brief descriptions of the four panels we will be trying to fill shall follow. To ensure our participation in the next IPSA World Congress we will need to be vigilant in filling these panels by the established deadline. Those wishing to participate must submit their paper proposals, including title and abstract, to Professor Michael Tolley (m.tolley@neu.edu) by **December 15, 2004**. Please indicate the panel you would like your paper to be placed.

Panel 1: Rule of Law and Courts in Emerging Democracies

What is the value of judicial independence and the judicial enforcement of the constitution in transitional democracies? Is judicial review needed for democratic consolidation? Papers examining the role of law and courts in emerging democracies are welcome.

Panel 2: Epistemology and Methodology in the Field of Comparative Judicial Studies

The Research Committee for Comparative Judicial Studies was founded in 1964 by several American political scientists who were beginning to study law and courts from a comparative perspective. What have we learned in 40 years? Papers examining the work of comparative judicial scholars through the years and proposing future research agendas are welcome.

Panel 3: Terrorism, Security and Human Rights: Achieving a Proper Balance

Papers examining anti-terrorism legislation and the role of courts in striking the balance between liberty and security are welcome.

Panel 4: Transnational and International Courts: The Relative Decline of Westphalian Sovereignty?

Papers examining the work and influence of transnational and international courts, such as the European Court of Justice, the European Court of Human Rights, the World Trade Organization, and the International Criminal Court, are welcome.

The theme of the 20th World Congress, meeting in Fukuoka, Japan, is “Is Democracy Working?” More information about this meeting can be found on IPSA’s website (<http://ipsa.ca>).

Call for Authors:

**IPSA's new book series
"The World of Political
Science: Development of
the Discipline"**

Comparative Judicial Studies Volume

Each of IPSA's research committees has been invited to participate in a new book series, titled "The World of Political Science: Development of the Discipline." The series is being published by Leske & Budrich, a highly respected German publishing firm that is now part of the Bertlesman-Springer conglomerate, and involves the worldwide Dutch publisher Kluwer. The first volume is scheduled for publication later this year, and twenty others are in the works. The plan is for each research committee to prepare a volume conforming roughly to the guidelines the project editors have established.

The first step is to commission authors for the volume RC#9 has been asked to complete. The plan is for each volume in the series to contain four papers covering the following topics:

- 1) A State of the Art Survey of Significant Recent Developments in the Field,
- 2) A Study of the Current Infrastructure of Methodology, Concepts, Training and Communication in the Sub-field,
- 3) A Synthetic Overview of Developments and Trends in the Sub-field, and

4) A Critical Evaluation of the Sub-field with Suggestions for the Future.

Authors are needed to complete this project. The project editors have asked me to be the contact and to organize and direct the work on the "Comparative Judicial Studies" volume. The first step is to commission authors for these four papers. Once the papers are commissioned, the second step will be to prepare and submit for approval a prospective table of contents. RC#9 members who are interested in working on this project should contact me by email (m.tolley@neu.edu) or regular mail (Professor Michael Tolley, 303 Meserve Hall, Northeastern University, Boston, MA 02115 USA). Please indicate which part of the project you are interested in working on.

The following is a more detailed description of the guidelines developed by the project editors to help give coherent direction to the Research Committees participating in the project.

THE MEANING OF DEVELOPMENT

This is not simply just another "state-of-the-art" exercise. We want to go beyond a list of who is doing what. Nor do we mean a particular state of development or advancement. The discipline is always 'developing'. Rather for us 'development' is a sort of code word to designate a process for the study of the discipline. By 'development' we mean analysis and explanation: analysis of all the

elements of the discipline including both its research output and infrastructure (training, funding, institutions, publications, transfer of knowledge, and influence on the socio-political system); explanation of why things are the way they are. Why are certain models, theories and methods predominant and how did they get to be so? To what extent are there regional, national or cultural differences in findings, ideologies, philosophies and approaches, and how do we explain this diversity? To what degree is it explained by divergent political behavior and to what degree by differing questions and perspectives?

In other words, we want to foster a self-conscious, systematic, and common perspective toward explaining variance in the discipline and to explaining the various degrees of advancement, indigenisation, and universalisation. We want to move toward 'causal' understanding of our discipline so we can evaluate its current status and seek areas and means for improvement as we strive after elusive political generalizations.

COMPARISON

If the individual RC studies of the development of the discipline are to articulate a vision of the state of political science that has a resonance in the discipline and across IPSA, they would need to share a common perspective for comparative purposes. The suggestions of the project editors are not very heavy-handed in this regard

because we are well aware of the potential differences in nature between the sub-disciplinary fields.

1. Although the title of your RC might be specialized, perhaps you may consider orienting your study to the broader topic which characterizes your sub-field as it is generally recognized in the discipline. This will provide us with studies that would be more widely used.
2. It is important to emphasize that the international development of your sub-discipline should be the focus of analysis rather than its development within a single country or region. The project is, at root, an international effort with an international focus.
3. For comparative purposes, it is purposed that, within the definition of 'Development' outlined above, each RC commission four papers to cover: 1) A state-of-the-art type survey of current activities in their specialization; 2) A study of conditions in methodology, concepts, training and communication of research; 3) A synthetic overview analysis and explanation of developments and trends; 4) A critical perspective focusing on present strengths and weaknesses and making suggestions for the future. This general approach will be very important for the cohesion of the project but, of course, it can be adapted to suit each Committee. It will be important for the authors to work as a team and to circulate early drafts of their papers to each other.

The suggested approach to the content of the four papers is elaborated below:

PAPER 1: A STATE-OF-THE-ART SURVEY OF SIGNIFICANT RECENT DEVELOPMENTS IN THE FIELD

This first paper should describe the significant, recent developments in the sub-field. Some questions that might be addressed are: what has been going on in the specialization during, say, the past two decades? (Each RC should consider the appropriate period to cover. One possibility is to take the period since the last major attempt to survey the sub-field, if this has ever been done). Who is doing what - in terms of cited authors, key writings, major research projects and findings, conceptual and theoretical changes, dominant schools and/or trends etc.?

Are there widely accepted empirical and theoretical generalizations that tend to define the sub-field? Have there been recent seminal contributions? Are there broad areas of universal agreement or are there significant regional-cultural differences in approach and/or interpretation in various parts of the world?

PAPER 2: A STUDY OF THE CURRENT INFRA-STRUCTURE OF METHODOLOGY, CONCEPTS, TRAINING AND COMMUNICATION OF RESEARCH IN THE SUB-FIELD

The second paper, like the first, will provide basic empirical data for the third and fourth papers. It will focus on the current infrastructure

and resources available to the sub-disciplinary area. Possible questions to be considered are: Is the sub-field taught as a special subject or as a part of other courses? Is it a doctoral topic? Does it have relatively settled parameters and a conceptual and terminological core? What are the major methodological approaches to research in the area? How wide an impact does the subject matter have on the discipline of political science? Does it have its own research centers and journals that are devoted to it? Is funding for research in the area readily available? By what means do specialists in the field communicate with each other and with the discipline as a whole, and to students, practitioners and the general public? Is the Internet playing a significant role?

PAPER 3: A SYNTHETIC OVERVIEW OF DEVELOPMENTS AND TRENDS IN THE SUB-FIELD

The authors of Papers 3 and 4 should take a step back from the actual activities in the sub-field to analyze and explain the significance of developments in the general domain studied by the Research Committee. To start, Paper 3 should seek to delineate the major new developments and trends that are defining the specialization and to analyze the factors that account for these developments. What are the major approaches and paradigms? What has happened, what has changed over, say, the past two decades? How does the field compare in content and quality with the immediately previous or ear-

lier periods? Has there been cumulation of knowledge? Are there trends toward universalisation or fragmentation? What explains the current state of the field? Are these determinants academic factors within the discipline, or the availability of resources, or socio-political factors and trends - or some other cause?

PAPER 4: A CRITICAL EVALUATION OF THE SUB-FIELD WITH SUGGESTIONS FOR THE FUTURE

Paper 4 carries out a critical evaluation of the specialization. It looks at its strengths and weaknesses and makes recommendations for improvements and directions for the future. How well is the subject matter of the specialization taught, researched and communicated? What approaches and topics are neglected? Does the field have biases? What have been the dominant influences - Americanization, westernization, local/regional/cultural differentiation, particular intellectual leaders of schools of thought, institutional conditions, resources? Can we speak of a 'hegemony' in the field? What is the social/academic status of the sub-field? How good are its relationships with practitioners, citizens and activists in the field? With respect to its methods, concepts, theory, models, and approaches, can it be said there is a tendency toward 'universalisation' (broad acceptance of generalisations) or indigenisation (adaptation to cultural conditions, development of alternative concepts, rejection of

suggested universal concepts)? Are there significant constraints to sub-field progress or important facilitating factors?

Is it possible to evaluate the quality of the field and its contributions? For instance, at the academic level, has it been subject to rigorous educational standards and scientific and ethical criteria? Has it developed significant new concepts and systematic knowledge? Has it contributed to the evolution of ideologies? As regards practical contributions, is the sub-field of much relevance to the general public? Are its concepts incorporated into public discourse? Have its ideas been adopted? Has it provided important explanations of political phenomena? Has it led to political change? Does it provide information and structured knowledge for its various audiences? Do its intellectual leaders also play a socio-political role? Is knowledge from the field used in policies or policy analysis? Or can we say the field is a source of consciousness raising or a foundation for critical analysis?

This new book series presents an extraordinary opportunity to produce an excellent volume highlighting the achievements of the sub-field of comparative judicial studies in recent decades. I look forward to hearing from you as soon as possible. As for the timetable, I understand that the plan is to submit a completed manuscript one year from the time the authors are commissioned and the prospective table of contents is approved.

Websites:

RC#9:
<http://www.casdn.neu.edu/%7epolisci/CJS/CJS.htm>

IPSA:
<http://ipsa.ca>

World Congress, Fukuoka, Japan:
<http://www.fukuoka2006.com/en/>

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Special Thanks:

I would like to take this opportunity to thank Dr. Kate Malleson for all her efforts in making the interim meeting last January a success.

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**IPSA—Research Committee for Comparative
Judicial Studies**

C/O Professor Michael C. Tolley
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303 Meserve Hall
Boston, MA 02115 USA

Address Correction Requested

Important Dates:

***Interim Meeting of the Research Committee for Comparative
Judicial Studies—Naples, Italy January 27-28, 2005
(Deadline for Paper/Panel Proposals—September 15, 2004)**

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