

# The Docket

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

June 2005  
Issue 41

## In this Issue

**1-3** Program of the  
Interim Meeting: Naples,  
Italy January 26-28, 2005

**4-5** Future Meetings:  
Call for Papers:

Interim Meeting in Tempe,  
Arizona (February 16-17,  
2006)

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

**6** Membership Renewal

*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 Universita degli Studi di Napoli Federico II

Host: Elisabetta de Francis-  
cis

Date: January 26-28, 2005

Theme: Emerging Paradigms  
of Rights Protection

## Panel 1. The Pro- tection of Rights in the Common Law and Civil Law Worlds

Chair: Michael Tolley,  
Northeastern University,  
Boston, Massachusetts

### Papers:

“Constitutional Review  
and Judicial Review:  
Protecting Human  
Rights in Europe”  
Mary L. Volcansek,  
Texas Christian Univer-  
sity, Fort Worth, Texas

“The U.S. Supreme  
Court’s Use of Com-  
parative and Interna-  
tional Law in the Con

struction of Individual  
Rights”

David M. O’Brien, Uni-  
versity of Virginia,  
Charlottesville, Virginia

“Integrating Asylum  
Rights in the EU and the  
Status of UNHCR Pro-  
tections”

Galya Ruffer, DePaul  
University, Chicago,  
Illinois

## Panel 2. The Pro- tection of Rights in the United King- dom, Canada and Australia

Chair: Clive Walker,  
School of Law, Univer-  
sity of Leeds

### Papers:

“Rights Protection  
Without a Bill of Rights:  
The Australian Case”  
Brian Galligan, Depart-  
ment of Political Sci-  
ence, University of Mel-  
bourne, Victoria, Aus-  
tralia and  
F.L. (Ted) Morton, Uni-  
versity of Calgary

“Assessing the UK Model of Rights Protection: The Human Rights Act Five Years On”  
Kate Malleson, Law Department, London School of Economics, London, England

“Coordinate Constitutionalism and the Canadian Charter of Rights and Freedoms”  
James Kelly, Department of Political Science, Concordia University

“Parliamentary Rights Model: What Does Political Rights Review Entail?”  
Janet L. Hiebert, Department of Political Studies, Queen’s University, Kingston, Canada

### **Panel 3. The Protection of Rights in Constitutional Democracies**

Chair: James Kelly, Department of Political Science, Concordia University

Papers:

“The Price of Rights: The Courts, Governmental Largesse, and Fundamental Liberties”  
Daniel Kramer, emeritus College of Staten Island

City University of New York

### **Roundtable Discussion 1. Assessing 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 and where do we go from here?

Moderator: Michael Tolley, Department of Political Science, Northeastern University

Discussants:  
Mary Volcansek, Texas Christian University

Menachem Hofnung, The Hebrew University of Jerusalem

Kate Malleson, London School of Economics

Carlo Rosetti, University of Parma

### **Panel 4. Competing Models of Rights Protection**

Chair: Carlo Mongardini, Professor and Chair in Political Science, University of Rome “La Sapienza”

Papers:

“Sexuality, Marriage and Family: Same-Sex Relationships in Comparative Perspective”  
Donald W. Jackson, Department of Political Science, Texas Christian University, Fort Worth, Texas

“Judicial Activism: The Role of Courts and Protection of Rights”  
Margit Cohn, Faculty of Law, University of Leicester, Leicester, United Kingdom and Mordechai Kremnitzer, Israel Democracy Institute and Professor of Law, The Hebrew University of Jerusalem

“Litigating Military Service at Civil Court”  
Menachem Hofnung, Department of Political Science, The Hebrew University of Jerusalem

“The Human Rights Ombudsman in Latin America: The Case of Peru”  
Jodi Finkel, Loyola Marymount University, Los Angeles, California

## **Panel 5. Role of Courts and the Protection of Rights**

Chair: Professor Ida Caracciolo, Associate Professor of International Law at the Facoltà di Giurisprudenza of the Seconda Università degli Studi di Napoli

Papers:

“The Role of Egyptian Administrative Law Courts in Protecting Citizen Rights”  
Mahmoud M. Hamad, Political Science Department, University of Utah, Salt Lake City, Utah

“Judicial Protection of Political Rights in a Transitional Democracy: The Courts and Electoral Politics in Malawi”  
Rachel Ellett, Northeastern University, Boston, Massachusetts

“Secession Crises and the Search for Coherence in International Legal Principles”  
Charles Anthony Smith, Department of Political Science, University of Miami, Coral Gables, Florida, NedZad Basic, Faculty of Law, University of Bihac, Bihac, Bosnia and Herzegovina, and

David Goetze, Department of Political Science, Utah State University, Logan, Utah

## **Panel 6. Terrorism, Security and Human Rights: Achieving a Proper Balance**

Chair: Massimo Jovane, Professor of International Law, Faculty of Law, University of Napoli Federico II

Papers:

“Raison d’etat and Individual Rights: The United States Supreme Court and Recent Cases”  
Elisabetta de Franciscis, University of Naples, Italy

“Securing Liberty in an Age of Terror: The Role of Courts in the United States and the United Kingdom”  
Michael Tolley, Department of Political Science, Northeastern University, Boston, Massachusetts

“Conspiracy, Democracy, and International Terror”  
Aaron Fichtelberg, Department of Sociology and Criminal Justice,

University of Delaware, Newark, Delaware

## **Roundtable Discussion 2. Anti-terrorism Efforts in Comparative Perspective**

Moderator: John E. Finn, Department of Government, Wesleyan University, Middletown, Connecticut

Discussants:

Clive Walker, Department of Law, University of Leeds

Carlo Rosetti, Department of Political and Legal Studies, Legal Studies Unit, University of Parma, Parma, Italy

Kirk A. Randazzo, Department of Political Science, University of Kentucky, Lexington, Kentucky “Multiple Preferences and Competing Constraints in Foreign Policy Litigation before the U.S. Federal Courts”

## Future Meetings:

### Call for Papers

#### Interim Meeting— Tempe, Arizona February 16-17, 2006

Professor Marie Provine, Director of the School of Social Justice at Arizona State University has arranged for us to meet on her campus. The theme of this meeting is “Globalizing Justice: International and Transnational Law, Courts, and Processes.” Papers and panels on a wide variety of topics dealing with international and transnational law and processes, the emerging “global community of courts,” transjudicial communication, the relationship between national and supranational courts, the enforcement of international human rights norms, legal integration through international, supranational, and transnational law, and substantive developments in transnational jurisprudence are most welcome. Proposals for roundtable discussions are also welcome.

Paper, panel, and roundtable proposals should be directed to Professor Michael Tolley by email ([m.tolley@neu.edu](mailto:m.tolley@neu.edu)) or regular mail (300 Meserve Hall, Northeastern University, Boston, MA 02115 USA).

The deadline for receiving proposals is September 15, 2005.

Since Tempe, Arizona is a popular destination (especially in February), there will

be pressure on us to book our hotel rooms well in advance. The following hotels are within walking distance to the conference meeting room (Coor 5536) on the campus of Arizona State University: **Tempe Mission Palms Hotel**,

60 East Fifth St., Tempe, AZ 85281 (\$239 per night)

[www.missionpalms.com](http://www.missionpalms.com)

480-894-1400

800-547-8705

**Courtyard by Marriott**,

601 S. Ash Ave., Tempe, AZ 85281 (\$219 per night)

480-966-2800

**Holiday Inn**,

915 East Apache Blvd.

Tempe, AZ 85281 (\$110 per night)

480-968-3451

The final program along with information about the meeting site and other conference activities will be sent to participants in October 2005.

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

The paper proposal deadline has passed (March 31, 2005) and each panel has been organized. Still needed are volunteers for panel discussants. Information on our four panels is printed below. If you are interested in serving, please contact Professor Michael Tolley ([m.tolley@neu.edu](mailto:m.tolley@neu.edu)).

#### Tentative Program

#### Panel 1. Transnational and Interna-

#### tional Courts: The Relative Decline of Westphalian Sovereignty?

Chair: C. Neal Tate, Vanderbilt University, Nashville, Tennessee, USA

Papers:

Donald Jackson, Texas Christian University, Fort Worth, Texas, USA, “International and Transnational Law versus National Sovereignty: Pure Power or a Dialectical Process?”

Carlo Rossetti, University of Parma, Parma, Italy, and Michael Tolley, Northeastern University, Boston, Massachusetts, USA, “Fundamental Rights, the European Court of Justice, and the Constitutionalization of Europe”

Carlo Mongardini, University of Rome “La Sapienza”, Rome, Italy, “The Nation State and the Problem of Sovereignty”

Mary Volcansek, Texas Christian University, Fort Worth, Texas, USA, “Penetrating Sovereignty: The Human Rights Act of 1998 and British Law”

#### Panel 2. Terrorism, Security and Human Rights: Achieving a Proper Balance

Chair: John Finn, Wesleyan University, Middletown, Connecticut, USA

Papers:

Janet Hiebert, Queen's University, Kingston, Ontario, Canada, "The Joint Committee on Human Rights: Centre Stage in the Dialogue on the Compatibility of Anti-Terrorist Responses with Human Rights"

Gerald Bursey, Northeastern University, Boston, Massachusetts, USA, "Terrorism and Emergency Powers in the United States"

James Kelly, Concordia University, Montreal, Quebec, Canada, "Canada's Anti-Terrorism Act: Securing Balance Through Parliamentary Scrutiny"

Menachem Hofnung, The Hebrew University of Jerusalem, Jerusalem, Israel, "International Strife and Democratic Breakdowns: The Limits of Occupation"

NedZad Basic, University of Bihac, Bihac, Bosnia and Herzegovina, "From Global Terrorism to Human Rights and Security"

### **Panel 3. Epistemology and Methodology in the Field of Comparative Judicial Studies**

Chair: Michael Tolley, Northeastern University, Boston, Massachusetts USA

Papers:

C. Neal Tate, Vanderbilt University, Nashville, Tennessee, USA, "Past, Present, and Future of Comparative Judicial Studies"

Margit Cohn, University of Leicester, Leicester, England, "Assessment of Judicial Activism"

Ran Hirschl, University of Toronto, Toronto, Canada, "*Eclectica*: On the Blurred Methodological Matrix of Comparative Constitutional Law"

Brian Galligan, University of Melbourne, Victoria, Australia, and John Chesterman, University of Melbourne, Victoria, Australia, "Comparative Assessment of Rights Revolutions: Political Dimensions"

### **Panel 4. Rule of Law and Courts in Emerging Democracies (Part I)**

Chair: Maria Elisabetta de Franciscis, University of Naples, Naples, Italy  
Papers:

Diah Asitadani, University of Geneva, Geneva, Switzerland, "The Obstacles in the Way of Law Reform in Newly Democratic Indonesia—In Comparison with Other Democracies"

Alexander Fischer, Heidelberg University, Heidelberg, Germany, "The Judicialization of the Elections in India"

Nancy Maveety, Tulane University, New Orleans, Louisiana, USA, and Anthony Pereira, Tulane University, New Orleans, Louisiana, USA, "Brazil's Federal Supreme Court: Captive or Conduit?"

John Finn, Wesleyan University, Middletown, Connecticut, USA, "The Rule of Law and Judicial Independence in Newly Democratic Regimes"

### **Panel 4. (Part II) : Rule of law and courts in emerging democracies**

Diana Kapiszewski, PhD student, University of California, Berkeley, Berkeley, California, USA, "Distributing the Costs of Stability and Reform: Macroeconomic Policy and Constitutionalism in Brazil, 1985-2004"

Christina Dallara, PhD student, University of Florence, Florence, Italy, "The Role of the European Union in Strengthening the Rule of Law and Promoting Judicial System Reforms in Third World Countries"  
Mahmoud Hamad, PhD student, University of Utah, USA, "The State, the Court, and Rights: The Political Role of the Judiciary in Egypt"

Joseph M. Isanga, LLM student, University of Notre Dame, Notre Dame, Indiana, USA, "The Role of Judicial Review in an Emerging Democracy: The Case of Uganda Courts of Judicial Review"

More information about this meeting can be found on IPSA's website (<http://www.ipsa.ca>).

**Websites:**

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

IPSA:  
<http://www.ipsa.ca>

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

**RC#9 Officers:**

Convener: Michael Tolley  
Northeastern University  
Boston, Massachusetts  
02115  
[m.tolley@neu.edu](mailto:m.tolley@neu.edu)

Secretary/Treasurer:  
Prof. Carlo Rossetti  
Department of Political and Social Studies  
Legal Studies Unit  
University of Parma  
Bgo Carissimi 11  
43100 Parma, Italy  
[grosset@unipr.it](mailto:grosset@unipr.it)

**Special Thanks:**

*I would like to take this opportunity to thank Elisabetta de Franciscis for all her efforts in making the Naples meeting in January a success.*

---

**RC#9 Membership Renewal**

**Name:** \_\_\_\_\_

**Institution** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Membership Dues: \$10.00 USD**  
**Make checks payable to:**  
**Research Committee for Comparative Judicial Studies**

**Telephone/Fax:** \_\_\_\_\_

**Return to: Prof Michael Tolley**  
**300 Meserve Hall**  
**Northeastern University**  
**Boston, MA 02115 USA**

**Email address:** \_\_\_\_\_

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

C/O Professor Michael C. Tolley  
Northeastern University  
300 Meserve Hall  
Boston, MA 02115 USA

Address Correction Requested

**Important Dates:**

**\*Interim Meeting of the Research Committee for Comparative  
Judicial Studies—Tempe, Arizona February 16-17, 2006  
(Deadline for Paper/Panel Proposals—Sept. 15, 2005)**

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