

The Docket

The Newsletter of the IPSA Research Committee on Comparative Judicial Studies (RC09)

February 2010

Issue 44

[http:// http://rc09.ipsa.org](http://http://rc09.ipsa.org)

Mandate of RC09

The Research Committee for Comparative Judicial Studies (IPSA RC09) 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. RC09 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 James Kelly, james.kelly@concordia.ca

RC 09 Executive Committee

Convenor James B. Kelly, Concordia University (Canada)

Treasurer Matthew Hennigar, Brock University (Canada)

RC 09 Executive Council (2009-2012): Mary Volcansek, Texas Christian University (USA); Donald Jackson, Texas Christian University (USA); Kate Malleson, Queen Mary University of London (United Kingdom); Elisabetta de Francis, University of Naples (Italy); Peter H. Russell, University of Toronto (Canada); Brian Galligan, University of Melbourne (Australia); Daniela Piana, University of Bologna (Italy)

In this Issue

Page

- 2 Remembering C. Neal Tate
- 2 Next Meeting – University of Bologna, June 21-23, 2010.
- 9 Conference Hotels – University of Bologna, June 21-23, 2010
- 9 Past Meeting – Santiago, Chile, July 12-16, 2009
- 11 Future Meetings – Irvine, California (2011), Madrid, Spain (2012)
- 12 Recent Publications by RC09 Members
- 11 Publications of Interest
- 11 Membership List

1 Remembering C. Neal Tate: RC 09 Convenor, 1985-1991

RC09 notes with sadness the sudden passing of C. Neal Tate on September 13, 2009 at the age of 65. Dr. Tate was a long-time member of RC 09 and served two terms as Convenor with distinction. He was the author of many significant studies on the judicial process and the judicialization of politics and his absence will be sorely missed at future RC09 meetings.

2 Next Meeting – University of Bologna, June 21-23, 2010

Judicial Review as 'Insurance Policy': Horizontal and Vertical Accountability in Democratic and Transitional States

Hosts: Carlo Guarnieri, University of Bologna, Italy
Daniela, Piana, University of Bologna, Italy

Conference Location

Facoltà di Scienze Politiche
University of Bologna
Strada Maggiore 45

Monday, June 21, 2010

Room: Aula Poeti, Facoltà di Scienze Politiche

8:15 – 9:00 Conference Registration

9:00 – 9:30 Introductions and Greeting

9:30-11:15 *Constitutional Courts as Insurance Policy?*

Chair **David O'Brien** (University of Virginia)

Papers **Sylvain Brouard** (Sciences Po Bordeaux) and **Christoph Hönnige** (Universität Kaiserslautern) “Constitutional Courts as Veto Players – Composition rules and the Absorption Hypothesis”

Nuno Gaoupa (UIUV) and **Tom Ginsburg** (University of Chicago) “Building Reputation in Constitutional Courts: Party and Judicial Politics”

Dante B. Gatmaytan (University of the Philippines) “The Judicial Review of Constitutional Amendments: The Insurance Policy in Post-Marcos Philippines.”

Kathie Barrett (Georgia State University) “Constitutional Courts, Legislative Power, and Democracy: What Price Rights?”

Pasquale Pasquino (Paris EHESS) “A Constitutional Court speaks of democracy. Is something wrong with that?”

11:15 – 11:30 Coffee Break

11:30 – 1:00 *Parliamentary Bills of Rights*

Chair **Michael Tolley** (Northeastern University)

Papers **David Erdos** (University of Oxford) “UK Labour’s British Bill of Rights and Responsibilities proposals – a stunted case of policy preserving constitutional insurance?”

Brian Galligan (University of Melbourne) "Parliamentary and Judicial Oversight of Executive Action: Australia's tentative national rights protection regime"

Janet L. Hiebert (Queen's University) "Legislative Reliance on Case Law to Reduce Risk"

James Kelly (Concordia University) "New Zealand's 'Uninsured' Bill of Rights: Weak-form Judicial Review and the Stability of the Parliamentary Model"

1:00 – 2:30 **Lunch**

2:30 – 4:15 *Judicial Review in Transitional States/States of Conflict*
Chair tbd

Papers **Marny Requa** (Queen's University Belfast) "States of Exception: Politicization of Justice in Transitions from Conflict"

Peter H. Russell (University of Toronto) "Constructing the Judiciary of a New Democracy: The Experience of Nepal"

Menachem Hofnung (the Hebrew University of Jerusalem) "State Security and Freedom of Movement"

Rachel Ellett (Beloit College) and **Alexei Trochev** (University of Indiana) "Victims, Villains, Heroes or Insurance Providers? Judicial Behavior in Uganda and Ukraine"

Malcolm Feeley (Berkeley) and **Zayn Siddque** (Princeton) "The Role of the Courts in a "Constrained" Democracy: the Case of Iran"

4:15 -4:30 **Coffee Break**

4:30 – 6:15 *EU Courts, Constitutionalism, and Judicial Independence*
Chair **Shimon Shetreet** (Hebrew University of Jerusalem)

Papers **Donald Jackson** (Texas Christian University) and **Mary Volcansek** (Texas Christian University) "Transnational European Institutions: Accountability and Legitimacy."

Maria Popova (McGill University) “EU Conditionality and Judicial Reforms in Eastern Europe”

Michael C. Tolley (Northeastern University) “Judicial Review of Agency Action in the US and EU”

Carlo Rossetti (University of Parma) “The Foreign Relations Subcommittee on terrorism and money-laundering and the BCCI case & the MORO Committee on president Moro assassination by the Red Brigades”

Carlo Guarnieri (University of Bologna) and **Daniela Piana** (University of Bologna) “Judicial Independence and the Rule of Law: the European Experience”

Tuesday, June 22, 2010

Room: Aula, Facoltà di Scienze Politiche

8:45 – 9:15 **RC Business Meeting**

9:15 – 11:00 *The Politics of Judicial Appointments and Selection*

Chair **Carl Baar** (Brock University)

Papers **Lori Hausegger** (Boise State University), **Troy Riddell** (University of Guelph) and **Matthew Hennigar** (Brock University) “Evaluating Judges: The Effect of Different Selection Systems on the Quality of Judges”

Martha H. Good (Miami University-Hamilton) “The Feminization of the Judiciary in Comparative Perspective: How and Why Women Become Judges”

Peter H. Solomon (University of Toronto) “Judges in Post-Soviet Russia and Ukraine: From Bureaucrats to Professionals?”

Sebastián Linares Lejarraga (Universidad de Salamanca) and **Elena Martínez Barahona** (Universidad de Salamanca) “Searching for balance between Democratic Accountability and Judicial Independence: the Selection of High Justices in Latin America”

Mariana Llanos (GIGA Institut für Lateinamerika-Studien) and **Leany Barreiro Lemos** (University of Oxford) “On Presidential Constraints. The Politics of Judicial Appointments in Brazilian Democracy (1989-2009)”

11:00 – 11:15 Coffee Break

11:15 – 1:00 *The Judicialization of Politics in the UK, USA and Australia*

Chair **Yitzhak Hadari** (Tel Aviv University)

Papers **Kate Malleson** (Queen Mary University London) “The judicialisation of politics in the UK: What difference will the new Supreme Court make?”

Stefanie Lindquist (University of Texas School of Law), **Jeffrey A. Segal** (Stony Brook University) and **Chad Westerland** (University of Arizona) “Judicial Review in the United States Supreme Court: Are Justices Merely Legislators in Robes?”

Reginald Sheehan (Michigan State University) and **Kirk Randazzo** (University of South Carolina) “The Impact of Legal and Jurisdictional Transformation on the High Court of Australia”

Jason Pierce (University of Dayton), **David L. Weiden** (Indiana University-Purdue University Indianapolis) and Rebecca Wood (University of Nevada-Las Vegas) “The Changing Role of the High Court of Australia”

Margit Cohn (Hebrew University of Jerusalem), “Judicial Development of the Grounds of Unreasonableness and Proportionality in the United Kingdom (and Elsewhere)”

1:00 – 2:30 Lunch

2:30 – 4:15 *The Judicialization of Politics in Latin America and the Iberian Peninsula*

Chair tbd

Papers **Élida Lauris dos Santos** (University of Coimbra) and **Paula Fernando** (University of Coimbra) “Can there be facilitating circumstances to the judicialization of politics? A comparative analysis between the Brazil and Portugal”

Raul A. Sanchez Urribarri (Tulane University) “The (Pernicious) Influence of Informal Connections on Judicial Power in Latin America – A Comparative Assessment”

Jodi Finkel (Loyola Maramount University) “Mexico’s National Commission of Human Rights Ten Years after Democratization: Why is the Ombudsman Office Still Unwilling to Enforce Accountability?”

Camilo Emiliano Saavedra Herrera, (PhD Candidate, London School of Economics and Political Science) “Precedent and Constitutional Review: The Politics of Precedent in the Supreme Court of Mexico”

Royce A. Carroll (Rice University) and **Lydia Tiede** (University of Houston) “Chile’s Constitutional Tribunal as an Effective Check on Government”

4:15 – 4:30 **Coffee Break**

4:30 – 6:15 *Judicial Policy Making: Environmental and Social Welfare Policy*

Chair **Zeev Segal** (Tel Aviv University)

Papers **Karin Byland** (PhD student, University of Geneva, Switzerland) “Administrative litigation through judicial review in Switzerland from 1990 to 2008: the case of environmental policy”

Christine Rothmayr Allison (Université de Montréal) “Variations of Judicialization: litigation patterns and judicial policy-making in comparative perspective”

Andrea Chandler (Carleton University) "The Constitutional Court and Supreme Court As Actors in Social Welfare Policy in Russia"

Assaf Meydani (The Academic College of Tel-Aviv-Yaffo) "The Supreme Court as a political entrepreneur: The Case of Israel"

8 pm RC 09 Dinner

Wednesday, June 23, 2010

Room: Aula Facoltà di Scienze Politiche

9:30 – 11:00 *Legal Mobilization*

Chair tbd

Papers: **Yoav Dotan** (Hebrew University of Jerusalem) "Understanding Judicial Behaviour and Legal Mobilization by Analyzing Governmental Positions in Litigation"

Rhonda Evans Case (East Carolina University) "Judicialization of Refugee Policy in Australia: Assessing the Role of Support Structures for Legal Mobilization"

Madalena Duarte (University of Coimbra) "Social Movements and Legal Mobilization"

Lisa Vanhala (University of Oxford) "The Environmental Movement and Judicial Review in the UK: The Recursive Relationship between Law and Social Movement Identity"

11:00 – 11:15 Coffee Break

11:15 – 12:45 *Comparative Sources of Judicial Empowerment*

Chair tbd

Papers: **Lisa Hilbink** (University of Minnesota) "The Constituted Nature of Constituents' Interests: Historical and Ideational Factors in Judicial Empowerment."

Patricia Woods (University of Florida) "The Ideological Foundations of Israel's 'Constitutional Revolution'."

Silvia Inclán (UNAM) "Judicial Reform in Mexico: Political Insurance or the Search for Political Legitimacy?"

Hootan Shambayati (University of Kansas) and **Esen Kirdis** (University of Minnesota) "In Pursuit of 'Contemporary Civilization': Judicial Empowerment in Turkey."

3 Conference Hotels – University of Bologna, June 21-23, 2010

A list of conference hotels has been posted on RC09's website at
[http:// http://rc09.ipsa.org](http://http://rc09.ipsa.org)

4 Past Meeting – Santiago, Chile, July 12-16, 2009

21st IPSA World Congress
 Santiago, Chile, July 12-16, 2009

Panel 141 Role of International and Domestic Courts in Authoritarian and Transitional States

Sabrina Pinnell (San Jose State University) "The Second Russian Constitutional Court: A 12-Year Assessment of its Role in Center-Regional Conflicts"

Maria Fernanda (Vanderbilt University) "Courts in Uruguay: Independent, Incorruptible, and Insignificant?"

Madhukar Shyam Chaturvedi (University of Rajasthan) "Proclamations and Political Translations of Social Justice in India: A Study of Judicial Response in the Last Two Decades"

Panel 142 Indigenous Peoples and Post-Colonial Justice

Lorne Sossin (University of Toronto) “The Duty to Consult: Procedural Justice as Aboriginal Rights”

John Kilwein (West Virginia University) “Comparing Aboriginal Rights Litigation in the Canadian and U.S. Sub-National Courts of Last Resort and Federal Intermediate Appellate Courts

Peter Russell (University of Toronto) “Courts as Agents of Justice in Indigenous-Settler Relations”

Panel 143 Evolution of Judicial Systems in Europe

Carlo Guarnieri (University of Bologna) and Daniela Piana (University of Bologna) “Judicial and Prosecutorial Independence in the Fight Against Political Corruption: The Case of European States”

Mary Volcansek (Texas Christian University) “The ECJ's Role in the Evolution of European Judicial Systems”

Panel 148 Legislative and Judicial Control of Executive Power in Comparative Perspective

James Kelly (Concordia University) “Executive Versus Parliamentary Supremacy: Victoria’s Charter of Human Rights and Responsibilities and Intra-Parliamentary Relationships”

Graham Dodds (Concordia University) “When Courts & Congress Contest the U.S. President's Unilateral Directives”

Brian Galligan (University of Melbourne) “Legislative & Judicial Control of the Executive in Subnational Governments”

5 Future Meetings

2011 Interim Meeting

University of California – Irvine

July 21-23, 2011

Hosts: Professor Tony Smith and Professor Diana Kapiszewski

2012 Triennial Meeting

22nd IPSA World Congress

Madrid, Spain

6 Recent Publications by RC09 Members

Dennis Baker, *Not Quite Supreme: The Courts and Coordinate Constitutional Interpretation*. Montreal: McGill-Queen's University Press, 2010.

Zachary Elkins, Tom Ginsburg and James Melton, *The Endurance of National Constitutions*. New York: Cambridge University Press, 2009.

Daniela Piana, *Judicial Accountabilities in New Europe*. London: Ashgate, 2009.

7 Publications of Interest by RC09 Members

Ralf Rogowski and Thomas Gawron, eds., *Constitutional Courts in Comparison: The U.S. Supreme Court and the German Federal Constitutional Court*. Berghahn Books, 2002.

8 Membership List

We are in the process of updating the membership list for RC09. Please send a recent entry, in the following format, to James Kelly james.kelly@concordia.ca

Entry Format

James B. Kelly

Associate Professor

Department of Political Science

Concordia University

james.kelly@concordia.ca

CANADA