

# Europe's Constitutional Mosaic

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In this seminar series, internationally recognised academics in constitutional studies will participate in five events, treating in contrasting ways five key normative challenges related to the 'mosaic', which will be conceptualized in an extended introduction to the project prepared by the applicants. The visiting speakers will submit papers in advance and commentators from the University of Edinburgh will prepare short commentaries. Both papers and comments will be published in a collective volume, projected for publication after June 2010.

The project will seek to explore the complex constitutional arrangements of the European space as an inter-connected mosaic. There has been much recent debate concerning the constitutional future of Europe, focussing almost exclusively upon the EU in the context of the (failed) Constitutional Treaty and subsequently the Treaty of Lisbon. Our premise is that this focus, while important, offers only a partial vision of the complex constitutional terrain of contemporary Europe. In addition it is essential to explore other threads of normative authority within and across states, embracing internal challenges to state-level constitutional regimes; the growing jurisprudential assertiveness of the Council of Europe regime (in particular through the ECHR); as well as Europe's ever thicker relations with broader international institutions, in particular those of the United Nations. Together these create increasingly dense networks of constitutional authority within the European space. This fluid and multi-dimensional dynamic is difficult to classify, and indeed may seem in many ways impenetrable, but that makes the academic challenge all the more important and pressing. Without this fuller picture it becomes impossible to understand the legal context of Europe today or the prospects of ongoing changes.

The project is principally an exercise in applied legal theory. It is intended as a contribution to the question of 'how law works' in circumstances of uncertain and contested final authority. As the 'mosaic' metaphor suggests, Europe's new constitutional configuration is characterized not only by its surface diversity and interweaving, but also by the distinctiveness of its constituent pieces. Each piece makes an independent claim to authority, and in the relationship between the pieces there is no commonly agreed paramount authority. When even 'constitutional' authority – traditionally the highest legal authority – is unsettled and where different constitutional authorities must continually negotiate or compete over the terms of their mutual accommodation, a significant shift has taken place in the very foundations of law. New challenges to both the legitimacy and the efficacy of law are signalled, and the European constitutional space provides the most developed contemporary case-study of this evolving process. Part of the aim of the project is to explore the links between these areas, and also to make a contribution to thinking about Europe's future political and legal configuration, with and also without the EU.

The seminars will address five key areas of normative challenge:

- **The EU:** Much has been written about the constitutional relationship between the EU and its member states, but at the same time political and constitutional developments on the ground, including Enlargement and the controversy over a

written Constitutional Treaty, have served to complicate this binary relationship. This initial workshop will help set the terms for our later sessions; EU legal scholars will offer perspectives on the broad constitutional canvas that now shapes their discipline and the opportunities and challenges it poses for the ongoing evolution of the European project.

- **States and their own sub-state governmental orders:** the specific challenge of national pluralism is an additional dimension that has potentially radical and disruptive constitutional implications, particularly as sub-state territories seek to exert their presence as discrete personalities on the European and broader international stage.
- **The Council of Europe** as an actor and standard-setter in relation to European states: this demands investigation of its role in the scrutiny of the sophistication of democratic arrangements, including the conditions for the emergence of new states and interrelations with EU enlargement policy.
- **The human rights dimension:** the European Court of Human Rights is engaged in new questions of ontology concerning the territorial boundaries of Europe as 'rights-bringer'. What of encounters between the current civil and political parameters of the ECHR and 'second' and 'third' generation rights claims concerning for example, social rights, minority rights and self-determination claims emerging particularly in central and eastern Europe?
- **The international dimension:** Europe's constitutional mosaic implicates the central issue of hierarchy and mutual accommodation not only between member states and European institutions, but also between those institutions themselves and other international bodies such as the UN Security Council.

The rich diversity of the mosaic structure, and the need for a corresponding diversity of specialist legal knowledge to ensure its adequate portrayal, accounts for the emphasis upon a seminar structure and the heavy involvement of external speakers. The projected edited volume is intended both as a self-standing contribution to applied legal theory, and a point of departure for further investigation of a novel and fast-evolving legal and political configuration.