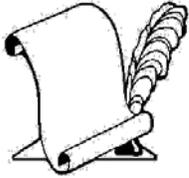

Subnational Constitutional Chronicle



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Subnational Constitutions a Focus at World Congress of Constitutional Law

More than five hundred legal scholars from over seventy countries attended the seventh World Congress of Constitutional Law, which was held in Athens, Greece from June 11-15, 2007. The conference, sponsored by the International Association of Constitutional Law (IACL), took as its theme "Rethinking the Boundaries of Constitutional Law," and part of that rethinking involved a new attention to subnational constitutionalism.

Among the workshops at the conference was one focusing on Subnational Constitutions in Federal Constitutional States, organized by the International Association of Subnational Constitutional Law, a group formed in 2004 by participants in a conference in Bellagio, Italy, on subnational constitutions sponsored by the Center for State Constitutional Studies. The IACL workshop on subnational constitutions marked the first time in its history that the IACL had invited an existing research group to organize a workshop. Chairing the workshop were Robert Williams, Associate Director of the Center for State Constitutional Studies, and Ant3nio Hern3ndez of Argentina, a member of the Executive Committee of the IACL and a participant in the Bellagio conference. Eighteen papers from scholars in ten countries were submitted for the workshop, analyzing subnational constitutions in most federal systems and their functional equivalents in quasi-federal states such as Spain and unitary states such as the People's Republic of China. Discussion during the three-hour workshop was lively, with more than fifty scholars in attendance.

The papers from the workshop, together with short summaries of their contents, will be posted on the Center's web site (www-camlaw.rutgers.edu/statecon) and on that of the International Association of Subnational Constitutional Law (<http://iacsl.camden.rutgers.edu>). For more information about the conference, consult the IACL web site (www.iacl-aidc.org).

IACL Forms Group on Subnational Constitutions

The International Association of Constitutional Law at the World Congress in Athens decided to support the creation of sub-groups within the organization reflecting the research interests of its members. These groups will facilitate contact among scholars with common interests and highlight research in their field. They may also promote collaborative projects and mount conferences of their own.

Among the sub-groups designated by the IACL was one focusing on subnational constitutions, and a large number of conference participants indicated their interest in the sub-group. The Center for State Constitutional Studies and the International Association of Subnational Constitutional Law have volunteered to serve as the organizers for this group. Members of the IACL interested in participating in this group should contact the Center for State Constitutional Studies at:

cscs@camden.rutgers.edu.

Virgin Islands to Convene Constitutional Convention

On June 12, voters in the American Virgin Islands elected the thirty delegates who will participate in the territory's fifth constitutional convention. The convention will convene in July, 2007, and the delegates will have a full year to propose a plan of government. That plan will then be submitted to Congress, which can approve or reject the constitution or can amend the proposal before submitting it to the territory's voters. Those voters have the final determination as to whether to ratify the constitution.

Congress authorized the Virgin Islands to establish its own constitution in 1976, and the territory has held four prior conventions, but none of the previous proposals became law. In one instance Congress failed to act on the convention's proposals. In others the territory's residents failed to ratify the proposed constitutions. Should the current convention devise a constitution that gains the approval of Congress and ratification by the territory's residents, it will replace the Revised Organic Act, passed by Congress in 1954, that now serves as the territory's basic law.

Although the constitution proposed by the Virgin Islands convention will in many ways resemble American state constitutions, there are important differences. In authorizing the Virgin Islands to draft a constitution, Congress stipulated that the document cannot address the territory's status and its relationship with the United States. As an unincorporated territory since it was purchased from Denmark in 1917, the Virgin Islands remain under the plenary authority of Congress (Article IV, Section 3, Paragraph 2 of the U.S. Constitution). The Virgin Islands cannot unilaterally alter that status. Some delegates may wish to address the status of "native Virgin Islanders" in the constitution, seeking to guarantee their interests against encroachments by more recent residents of the islands. Whether such guarantees, which would run afoul of the federal Constitution if enacted by a state, are permissible for a territory remains a contested political issue.

The Center for State Constitutional Studies has been involved with the efforts to draft a Virgin Islands Constitution. In early May Alan Tarr journeyed to St. Thomas to speak with prospective delegates about the task of constitution-drafting and about the issues they would have to resolve regarding their territorial legislature. A week later

Robert Williams addressed prospective delegates in St. Croix about the task of constitutional drafting. For further information about the process of constitutional reform in the Virgin Islands, one can consult the coverage in the *Virgin Islands Daily News* at www.virginislandsdailynews.com or the web site established by the University of the Virgin Islands at www.itsourfuture.vi.

Constitutional Reform in Wisconsin?

In September, 2006, a conference at Marquette Law School addressed the topic "Is the Wisconsin Constitution Obsolete?" The conference presentations were published in the Spring, 2007, issue of the *Marquette Law Review*. They include:

"Is the Wisconsin State Constitution Obsolete? Toward a Twenty-first Century Functionalist Assessment"
Robert F. Williams

"Environmentalism and the Wisconsin Constitution"
Jason J. Czarnecki

"Tax and Expenditure Limitations and Economic Growth"
Steven Deller & Judith I. Stallman

"What Is 'Fair' Partisan Representation, and How Can It Be Constitutionalized? The Case for a Return to Fixed Election Districts"
James A. Gardner

"Neither Peace Nor Uniformity': Local Government in the Wisconsin Constitution"
Michael E. Libonati

"State Policy Consequences for Wisconsin's School Districts: Spending Disparities, Finance Formulas, and Revenue Restrictions"
Craig Maher, Mark Skidmore, & Bambi Statz

"On Wisconsin: Some Friendly Constitutional Advice"
William A. Niskanen

"Comments on William A. Niskanen's 'On Wisconsin: Some Friendly Constitutional Advice'"
Andrew Reschovsky

Recent and Forthcoming Publications

Barcelo, Daniel
[a translation into Spanish of G. Alan Tarr, *Understanding State Constitutions*].

- Conley, Patrick T., and Robert G. Flanders, Jr. *The Rhode Island State Constitution: A Reference Guide*. Westport, CT: Greenwood Press, 2007.
- Graham, Cole Blease. *The South Carolina State Constitution: A Reference Guide*. Westport, CT: Greenwood Press, 2006.
- Tarr, G. Alan. "Designing an Appointment System: The Key Questions," 34 *FORDHAM URBAN LAW REVIEW* 291 (2007).
- Tarr, "Politicizing the Process: The New Politics of State Judicial Elections," in Keith Bybee, ed., *Benchpress: The Collision of Courts, Politics, and the Media*. Stanford, CA: Stanford University Press, 2007.
- Tarr, "La Potencialidad del Constitucionalismo Estatal," in Manuel Gonzalez Oropeza and Eduardo Ferrer Mac-Gregor, eds., *La Justicia Constitucional en las Entidades Federativas*. Mexico City: Editorial Porrúa, 2006.
- Tarr, "Los Fundamentos Constitucionales del Federalismo Judicial Americano," in Manuel Gerpe and Merce Barcelo, eds., *El Federalismo Judicial*. Barcelona: Institut d'Estudis Autonomics, 2006.
- Tarr & Williams, Robert F. "Introduction" to Annual State Constitutional Issue, 37 *Rutgers Law Journal* 877 (2007).
- Williams, Robert F. *State Constitutional Law: Cases and Materials*, 4th ed. Charlottesville, VA: Lexis-Nexis, 2006.
- Williams, "The New Judicial Federalism Takes Root in Arkansas," 38 *Arkansas Law Review* 883 (2006).
- Williams, "La expansion de recursos judiciales en las constituciones de las entidades federativas de los Estados Unidos: algunas lecciones para Mexico?", in Manuel Gonzalez Oropeza and Eduardo Ferrer Mac-Gregor, eds., *La Justicia Constitucional en las Federativas*. Mexico City: Editorial Porrúa, 2006.

Center Shorts

In January, 2007, Robert Williams, Associate Director of the Center for State Constitutional Studies, delivered a talk on "The Judicial Pay Rise in Pennsylvania," at a meeting sponsored by the Pennsylvania Bar Association and Pennsylvanians for Modern Courts.

In February, 2007, Alan Tarr, Director of the Center for State Constitutional Studies, delivered a talk on “Judicial Federalism” at the Supreme Court of Justice of Mexico and with television transmission via the court’s channel throughout the country.

In February, 2007, Tarr delivered a talk on “Reform and Innovation in a Federal System,” at the Graduate School of Public Administration and Public Policy in Monterrey, Mexico.

In February, 2007, Williams spoke at a Pennsylvania Bar Institute program on the controversial Pennsylvania Supreme Court decision upholding judicial pay raises and striking down legislative pay raises, based on the Pennsylvania Constitution. He also spoke in March at a League of Women Voters program at the University of Pennsylvania on the same topic.

In March, 2007, Williams won a case before the New Jersey Superior Court, Appellate Division, seeking to challenge a gift of public money to a private entity under the New Jersey State Constitution.

In March, 2007, Williams testified at a public hearing of the State Government Committee of the Pennsylvania Senate, focusing on issues related to the calling of a constitutional convention in Pennsylvania.

In March, 2007, Williams spoke at the University of Mississippi School of Law Conference on State Constitutions and Search and Seizure, focusing on judicial methodology in such cases. An article based on his talk will be published in the *Mississippi Law Review* in the Fall.

In April, 2007, Tarr presented a paper on “Rethinking Judicial Independence and Judicial Accountability” at the annual convention of the Midwest Political Science Association.

In May, 2007, Tarr received the Rutgers College Class of '62 Presidential Public Service Award.

Alabama Convention Efforts Stall

Despite growing legislative support, companion bills to “Let the People Vote” on whether to call a constitutional convention stalled in the Alabama legislative session ending June 7. The bills in both the Senate and House were passed out of committee and placed on the master calendar for each body to consider. However, in the Senate, a power struggle over rules that derailed action on almost all bills doomed the convention proposal, and in the House organized opposition from ALFA (the Alabama Farm Association) ensured that the members favoring reform were not able to muster the supermajority necessary on a key procedural vote to keep the bill moving. Nonetheless, the proposal for a popular vote on whether to hold a convention won twice as much support in the House in 2007 as in previous years, and the Alabama Citizens for Constitutional Reform, the main group pushing for a new constitution, vowed to continue its efforts to replace the state’s 1901 constitution.

Support for the Center for State Constitutional Studies

The Rutgers Center for State Constitutional Studies is seeking funding to support its service, research and education programs, as well as Center operations. Although the Center gratefully acknowledges the generous support it has received from Rutgers University, from private foundations, and from agencies of state government, this funding does not fully meet the costs of maintaining and expanding the Center's activities.

Through the Rutgers University Foundation, the Center is seeking contributions from the community as well as from corporations and foundations. Individuals may give gifts in the form of stock, bequests, and in-kind donations, in addition to traditional monetary contributions. Development Officers at the Rutgers University Foundation are available to discuss different types of contributions and associated tax benefits.

If you are interested in making a contribution to the Center for State Constitutional Studies, please contact Jonathan Boiskin, Director of Development at 856-225-6324 or at Boiskin@camden.rutgers.edu for more information.

Keeping Informed & Informing Others

In order that we can provide more immediate information on the Center's activities and upcoming events, we are asking that you send to the Center your e-mail address. Please send it to: cscs@camden.rutgers.edu.

The Center welcomes information about constitutional developments within your state or subnational unit and publications relating to subnational constitutions or federalism. The Center is eager to publish such information, space permitting, so as to make it available to a broader audience. Send such information also to: cscs@camden.rutgers.edu.

Contacting the Center

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