



NAGOYA
UNIVERSITY



**Nagoya University Center for Asian Legal Exchange (CALE)
and Graduate School of Law (GSL)
2022 CALE Annual Conference**

**The Identity and Dynamics of Contemporary Asian Constitutionalism
in the Context of Globalization
(Speakers' bio and abstracts)**

Day 1: February 14 (Monday) 2022, 18:00 – 20:45 (Japan)

Session on Eurasia Perspective

1) Andrei N. Medushevskiy

Bio:

Andrey Medushevskiy, Dr., is a professor at the Higher School of Economics in Moscow, where he teaches Legal Philosophy, Comparative Constitutional Law and Political Science. He is Chairman of the Scientific Advisory Board of the reputed Russian journal “Comparative Constitutional Law” and the leading expert of the International Institute of Law and Public Policy, the author of 15 books and more than 500 articles in Russian and international learned journals. Among his recent publications: Law and Social Constructivism: the Russian School of the Legal Realism Reexamined// Brozek B., Stanek J. (Eds.) Russian Legal Realism. Springer, 2018. P. 37-66; Populism in the West and in Russia: a Comparative Perspective of Similarities and Differences// Crawford C (Ed.). Populism as a Common Challenge. Conrad Adenauer Stiftung, 2018. P. 47-57; Recht und Gerechtigkeit in den politischen Debatten der postsovietischen Ara (mit Nachtrag 2017)// Hrsg. N. Plotnikov. Gerechtigkeit in Russland. Sprachen, Konzepte, Praktiken. Munchen: Wilhelm Fink, 2019. S. 423-460; Global Constitutionalism and Legal Fragmentation// Studia Iuridica Lublinensia, 2021. Vol. 30 (4). P. 393-440.

Abstract:

(Global Constitutionalism under Stress: Russian Constitutional Reform as a Turning Point and Model of the Legal Retraditionalisation in Asia)

Global constitutionalism became the main theoretical ground, form and practical instrument for the international legal integration after the end of the Cold War in the era of the “triumphant liberalism”. Based on classic Western liberal values and principles of human rights it emphasized the role of international constitutional law and courts as a principally new form of supranational regulation trespassing the national borders, identities and state sovereignty. Up to now this trend took its practical implementation mainly in the Western part of the world (European Union) and partly associated regions (Latin America), but demonstrated growing difficulties in Eurasia (Post-Soviet region), and Asia.

The Asian region, in spite of great difference between more than 50 respective countries, demonstrated the growing trend to legal fragmentation and state-oriented constitutional agenda. That resulted in visible asymmetry of the Asian constitutional development: the absence of the common Asian legal identity; priority of hierarchy in international system over state equality principle; the rebirth of Westphalian concept of sovereignty instead of post-national concept, the search for separate national legal identities. This variety of constitutional forms deeply rooted in colonial and post-colonial past of different Asian regions, cultures, nationalist beliefs, and current pragmatic interests.

In systematic and very clear form this new trend and its theoretical background represented in the Russian constitutional reform of 2020. The Russian Constitution of 1993 as adopted after the collapse of USSR and Communism in 1991, became one of the most liberal and pro-Western legal acts of that period, but later appeared to be transformed by different revisions towards conservative constitutional authoritarianism. This evolution of liberal constitutionalism in the form of legal retraditionalization, legitimized as anti-globalist restoration of national sovereignty, formed the crucial challenge for both Eurasian and Asian constitutional development – the necessity to make decisive choice between global constitutionalism and the protective constitutionalism as two opposite forms of adaptation to legal globalization in process.

2) Sergey Sayapin

Bio:

Sergey Sayapin LLB, LLM, Dr. iur., PhD is an Associate Professor and Associate Dean at KIMEP University's School of Law (Almaty, Kazakhstan). His current research focuses on Central Asian and post-Soviet approaches to international law, international conflict and security law, law and technology, and law and society. Dr. Sayapin authored, among numerous other publications, *The Crime of Aggression in International Criminal Law: Historical Development, Comparative Analysis and Present State* (T. M. C. Asser Press / Springer, 2014), and co-edited *The Use of Force against Ukraine and International Law: Jus Ad Bellum, Jus In Bello, Jus Post Bellum* (T. M. C. Asser Press / Springer, 2018) and *International Conflict and Security Law: A Research Handbook* (T.

M. C. Asser Press / Springer, 2022). He is sub-editor for Central Asia of the Encyclopedia of Public International Law in Asia (Brill, 2021).

Abstract:

(The Role of International Law in the Legal Systems of Central Asian States)

The Central Asian States should learn relying on international law, more proactively and consistently, as a tool for advancing their own lawful interests, and for maintaining regional and international peace and security. Kazakhstan's membership in the UN Security Council (2017– 2018) was an excellent occasion to promote respect for international at the regional level. Other recent examples of such reliance include the adoption of a Convention on the Legal Status of the Caspian Sea in 2018, or an ongoing reform of criminal law and procedure in Uzbekistan whereby the role of the State's obligations under international law is expressly emphasised. Yet, international law is still largely unknown among the general public, and even among some law professionals, or is regarded as "institutionalised politics", and this paradigm must shift towards a more constructive, realistic and practical understanding of the phenomenology of international law. Border issues, regional migration, drug trafficking, human trafficking, disputes over water, and international terrorism are just a few challenges, which require Central Asian States' cooperation among themselves, and with other States. The competing interests of especially China, Russia, the United States, and the European Union in the region are adding to the complex mosaic of regional dynamics. The proposed paper will highlight some key trends in the practice, research and teaching of international law in Central Asia, and suggest ways forward.

3) Scott Newton

Bio:

Abstract:

4) Akmal Saidov

Bio:

Akmal Saidov, Professor/Academician (D.Sc., the Institute of State and Law (Moscow). First Deputy Speaker of the Legislative Chamber of the Parliament of Uzbekistan and Vice-President of the Executive Committee of the Inter-Parliamentary Union, Director of the National Center for Human Rights.

Abstract:

(Central Asia's New Tendencies of Constitutional Development: A Case of Uzbekistan)

The era of globalization, digitalization, climate change and rapidly changing life poses new urgent, extremely important and urgent tasks for further modernization of the country, strengthening peace, stability and national independence.

The key importance in carrying out dynamic reforms is precisely the development of the constitutional and legal foundations for the modernization of society and the state. There are practically no constitutions in the original version left in the world. In the XXI century alone, about 90 countries of the world have successfully implemented constitutional reforms, 57 have adopted new constitutions.

Constitutional reform is a necessary legal prerequisite for current and future successful and sustainable development. In particular, it can become a vital tool for promoting "better governance" by changing constitutional "rules" that strengthen the system of checks and balances between the branches of government, greater accountability, transparency, participation and predictability.

First, the author provides a general overview of the diverse and dynamic constitutional landscape of the New Uzbekistan. Afterwards, the author analyses in depth constitutional development of Uzbekistan by comparative constitutional analysis of the independent Central Asian States. The last part of the paper deals with experience of Uzbekistan in contemporary constitutional system.

5) Herbert Küpper

Bio:

Born in 1964 in Germany; legal studies in Cologne and London, 1997 doctoral degree, 2002 habilitation; since 2003 senior research fellow and since 2004 director of the Munich Institute for East European Law (www.ostrecht.de); main fields of research: Hungarian law, East European law, comparative constitutional law, comparative administrative law; numerous research projects and publications in these fields of interest; longer research stays in Budapest (Ministry of the Interior, 1993; Academy of Science, 2014) and Nagoya (CALE, 2010); key expert in international legal co-operation programmes in Hungary and Kosovo, member of the Advisory Body of the Hungarian Ministry of Justice for the codification of the administrative litigation act; regular teaching activities at the Andrassy Gyula University Budapest, the Doctoral School of Law of the University of Pécs, and the Legal Translation Training Programme (German-Hungarian/Hungarian-German) of the University of Szeged; doctor honoris causa of the University of Pécs (2014). For more details including a full bio and a publication list, please refer to: <https://www.ostrecht.de/team/prof-dr-dr-h-c-herbert-kuepper/>

Abstract:

(Russia's Constitutional Amendments of 2020 Read through the Post-Colonial Lens: Do the Amendments Pave the Way for Russia to Become a Colonial Power Again?)

Both Tsarist Russia and the Soviet Union were the centre of a colonial empire. After the demise of the Soviet Union, the Russian Federation seemed to abandon colonial ambitions. Its constitution of 1993 accepted, inter alia, the supremacy of international law, a self-contained role in international relations and asymmetrical federalism for its

'multinational' people. The constitutional amendments of 2020 seem to break with this modesty, re-defining the Russian Federation as a strong state claiming to be a world power and the imperial centre of at least the former Soviet space. Furthermore, they assert Russia's sovereignty over international law, thus reverting to imperial Tsarist and Soviet exceptionalism in order to underpin Russia's colonial ambitions. A detailed analysis with the tool-box of post-colonial constitutional studies reveals that this break is gradual (quantitative) rather than fundamental (qualitative). The 1993 Constitution never gave up colonialism: behind the façades of ethno-federalism, relations between the Russian centre and the subaltern non-Russian periphery of the federation continued to be colonial in nature. Russian troops remained in the post-Soviet space (Georgia, Moldova). The 2020 amendments intend to consolidate this situation and make Russia fit to extend its dominance beyond its present borders by getting rid of the constraints of international law and constitutionalizing existing hyper-presidentialism and isolationism. The scope of Russian dominance changes from internal colonialism to the re-establishment of the Russian empire in the ex-Soviet space and beyond. The constitutional amendments openly re-define Russia as a power with distinct imperial ambitions.