

The Centre for Comparative and Public Law Faculty of Law, The University of Hong Kong

Seminar

Constitutional Rights in Two Worlds: South Africa and the United States

Professor Mark Kende

*James Madison Chair in Constitutional Law
Director, Drake Constitutional Law Center, Drake Law School*

**Thursday, 11 June 2009, 1:00 - 2:00 pm
Room LG103, LG1 Floor KK Leung Building, HKU**

The South African Constitutional Court has issued internationally prominent decisions abolishing the death penalty, enforcing socio-economic rights, allowing gay marriage and promoting equality. These decisions are striking given the country's Apartheid past and the absence of a grand human rights tradition. By contrast, the U.S. Supreme Court has generally ruled more conservatively on similar questions. This book examines the Constitutional Court in detail to determine how it has functioned during South Africa's transition and compares its rulings to those of the U.S. Supreme Court on similar rights issues. The book also analyzes the scholarly debate about the Constitutional Court taking place in South Africa. It furthermore addresses the arguments of those international scholars who have suggested that constitutional courts do not generally bring about social change. In the end, the book highlights a transformative pragmatic method of constitutional interpretation - a method the U.S. Supreme Court could employ. This is the first book to compare leading South African Constitutional Court rights decisions with their American counterparts in some detail and provides an original examination of South African Courts' development of a truly African approach to constitutional rights. This is also the first book to provide background on the Constitutional Court's Justices and about how they approached the transition from an Apartheid judiciary to the judiciary in a multi-racial democracy.

Mark Kende is the James Madison Chair Professor of Constitutional Law and Director of the Drake Constitutional Law Center. Kende earned his B.A. cum laude with honors in Philosophy from Yale University, and his J.D. from the University of Chicago Law School where he was a member of the Law Review. Prior to entering academia, he clerked for a federal judge and litigated employment, civil rights and constitutional cases at a Chicago law firm where he worked with Senator Barack Obama. He has co-taught constitutional law classes with two current U.S. Supreme Court Justices. Kende's writings have appeared in publications such as *Constitutional Commentary*, *the South African Law Journal*, *the Hastings Law Journal*, and *the Notre Dame Law Journal*. He is also the co-author of a casebook, *Theater Law*, and was one of the authors of *Courting the Yankees, Legal Essays on the Bronx Bombers*. Professor Kende's recent book, *Constitutional Rights in Two Worlds, South Africa and the United States*, is set for publication by Cambridge University Press in March 2009.

ALL ARE WELCOME!

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email Flora Leung at fkleung@hku.hk to reserve a place.