

## COURSE DESCRIPTIONS 2009–2010

### FIRST (INTRODUCTORY) MODULE

#### *MANDATORY COURSES:*

SJD Candidates

Legal Terminology

14 class hours

Understanding legal language and terms of art is essential to success in all types of legal settings and endeavors. This course will help students understand legal terms in English by introducing and discussing fundamental concepts of the (mostly U.S.) common law system. The main aim of the course is to provide in-depth introduction to the methodology and many uses of case analysis and case briefing. Short written assignments are used to follow the development of relevant skills and to evaluate performance throughout the course.

Tibor Tajti

Contracts - Introduction with Focus on Common Law

14 class hours

The course covers introduction to contract law - with focus on common law: A Glimpse Back in History (Contracts of Genesis; Contracts in Dark Ages - Provisions on contracts and some added highlights from Rothair's Edict (643), Burgundian, Ripuarian and other medieval laws; Naya, Thooraha, recovery by moral compulsion, and other traits of Kandyian (Sinhala) Contract law); Basic contemporary contract related notions; The Concept of Contract under Common Law; Protected Promises and Expectations (When and why are promises protected - The basis of contract; The issue of consideration); Protection of expectations; Instances in which promises are not protected (Misrepresentation; Fraud); Abundance of promises; Breach and Remedies (Breach of contract exemplified; The choice of remedy for breach of contract; Damages; Liquidated damages, penalty clauses - A comparative examination; Punitive damages); Frustration, Force Majeure, Changed Circumstances (The concept of frustration; Frustration of purpose; Impossibility and related excuses; Force majeure and contract drafting).

Required reading: Professor Tibor Várady: Contracts – Introduction with Focus on Common Law, Budapest 2000, Course materials

S.J.D. candidates

Computer Based Legal Research

10 hours

Structure of the course:

The course comprises of 1 one-hour in-class instruction and the completion of emailed, take-home assignments.

Aim of the course:

To teach the students how to find legal sources with the Internet within a reasonable time. Also, to give some impression to the students on what is available with Internet in their field of legal interest.

Renáta Uitz

Introduction to US Constitutional Law for CCL students

28 class hours

This introductory course is intended to familiarize students in the Comparative Constitutional Law program with the precedent-based approach to constitutionalism through the experiences of the U.S. constitutional system. The course commences with a survey of structural issues (including federalism, separation of powers and constitutional adjudication). This is then followed by discussion of select problems of fundamental rights protection in courts using examples of equal protection, liberty and privacy. Constitutional problems will be presented in their broader historical and societal context.. Note that the US jurisprudence on other fundamental rights (such as free speech or freedom of religion) will be covered in separate courses in detail during the academic year).

The course aspires to introduce the U.S. constitutional system from a unique, human rights oriented perspective. The primary aim of the course is to make students feel comfortable in a legal setting where court decisions are a primary source of the law and of constitutional rights. In addition, the course hopes to present constitutional litigation as a means of understanding governmental operations and defending individual rights.

Renáta Uitz

Brief Introduction to US Constitutional Law for HR MA students

14 class hours

This introductory course is intended to familiarize the student with the precedent based approach to constitutionalism with special emphasis on rights protection relying on the US constitutional system. Following short overview of the particularities of constitutional adjudication, the course will explore select problems of fundamental rights using examples of equality, free exercise and privacy. Constitutional cases will be discussed in their broader historical and societal context, taking into account the special needs and interests of human rights students.

Gar Yein Ng

Introduction to Law/Legal Terminology

28 class hours

This course will familiarize students not holding a law degree with the fundamental principles and procedures of civil and common law legal systems and introduce them to the international legal regime. Students will be introduced to statutory interpretation, case analysis and legal reasoning. The course aims to develop skills enabling non-lawyers' participation in courses covering legal subjects and requiring background in basic legal education.

Michael Hamilton

Introduction to Human Rights

14 class hours

This introductory course aims to provide a critical grounding in human rights law and a springboard for later, more specialised, courses. We will discuss the theoretical and philosophical foundations of human rights, and explore key debates that underlie contestation about their meaning, scope and enforceability in practice. The course will overview the structure and operation of international and regional human rights frameworks. In doing so, it will examine issues such as the beneficiaries and guarantors of human rights; the limitation of rights; and NGO strategies in protecting human rights. The course seeks to encourage independent thinking about both the utility of rights language and the challenges facing the international human rights community.

Mathias M. Siems

Introduction to European Contract Law

14 class hours

The unification of European contract law cannot be reached by legislation alone. As stated by Hein Kötz: "Legislation will doubtless continue to be needed when a particular problem calls for a uniform solution, but if any proper 'common law of Europe' is to emerge, we must first 'Europeanise' the way lawyers think, write and learn." (*European Contract Law*, 1997, Preface). Accordingly, this course will investigate European contract law through examining the principles and institutions common to the main European legal systems. A special focus will be given to contractual remedies. Reference will be made to civilian and common law systems, in particular, the laws of England, France, Germany and Scotland. Students will be encouraged to criticise constructively current laws and to suggest and evaluate possible reforms. Part of each seminar involves the solution of case studies according to different legal systems.

The seminars will cover: (1) contractual duties and breach of contract (with references to legal and non-legal sanctions); (2) withholding performance (with references to the role of courts in contract enforcement); (3) specific performance (with references to the theory of "efficient breach of contract"); (4) termination (with references to the relevant European directives); (5) the law on damages (with references to the economics of contract law); (6) penalties and freedom of contract (with references to contractual drafting); and (7) disgorgement of profits (with references to the contract law of non-EU countries).

ABBREVIATED LITERATURE:

H Beale, A Hartkamp, H Kötz, D Tallon, *Cases, Materials and Text on Contract Law*, (2002) Hart Publishing, Oxford and Portland, Oregon ("BHKT")

R H Christie, *The Law of Contract* (4<sup>th</sup> ed., 2001), Butterworths, Durban ("Christie")

William W McBryde, *The Law of Contract in Scotland* (2<sup>nd</sup> ed., 2001), W Green, Edinburgh ("McBryde") with updating supplements

H L MacQueen and J Thomson, *Contract Law in Scotland* (2000), Butterworths, Edinburgh ("MacQueen and Thomson")

B Markesinis, H Unberath, A Johnston, *The German law of contract: a comparative treatise*, (2<sup>nd</sup> ed, 2006), Hart Publishing; ('MUJ')

E McKendrick, *Contract Law* (6<sup>th</sup> ed., 2005), MacMillan Law Masters ("McKendrick")

B Nicholas, *The French Law of Contract*, (2<sup>nd</sup> ed., 1992), Clarendon Press, Oxford ("Nicholas")

Van der Merwe, Van Huyssteen, Reinecke, Lubbe and Lotz, *Contract: General Principles*, (2<sup>nd</sup> ed., 2003), Juta & Co, Cape Town ("Van der Merwe et al")

R Zimmermann, *The Law of Obligations*, (1990) Juta & Co, Cape Town ("Zimmermann")

K Zweigert and H Kötz, *An Introduction to Comparative Law* (3<sup>rd</sup> ed., 1998, trans. T Weir), Clarendon Press, Oxford ("*Zweigert and Kötz*")

Vladimir Petrovic/Márton Zaszkaliczky

History as Context

14 class hours

This introductory course aims to provide basic historical background for understanding several major influences in the development of the Western law. Students are invited to interpret legal traditions and documents as both outcomes and creators of historical processes.

This approach is believed to help students understand the dual nature of legal and constitutional texts - being historical text written in a particular historical situation, on the one hand, and being normative text used timelessly up to now, on the other.

This active relationship between history and law is analyzed through the work with legal and historical sources from several distinctive periods. Particular attention is given to the documents and periods relevant for the development of constitutionalism and human rights law. Pivotal documents of English legal history from Magna Charta Libertatum to Habeas Corpus Act and their influence on constitutional debates in the United States are seen in the light of their historical context. Connections between the American and French revolution are analyzed through the great Declarations which later came to symbolize them. Different legal traditions of the 19th century Europe are scrutinized with a particular emphasis on Germany, from the Empire, through Weimar and Third Reich to the post-War period. Lastly, the emergence of international humanitarian law and international criminal law are tracked through the 20th century.

Peter Hay

Anglo-American Legal Concepts

14 class hours

The structure, methodology, and some institutions of the Anglo-American legal system differ considerably from the "civil law" of Europe, South America, and parts of Asia. Since IBL program introduces many substantive law subjects from the perspective of American law, it is important to become familiar early with how a common law legal system works: the central role of the "case law," the analysis of cases to determine their actual "holdings," the reach of "precedent" and of "res judicata", as well as the structure of the American court system. This course explores these and other problems, illustrated by cases.

Roger O'Keefe

Introduction to Public International Law

28 class hours

The course aims to introduce students to the characteristic legal techniques and central doctrinal concerns of public international law, the law governing the conduct of states, international organizations and certain other actors on the international plane. Through a focus on the relevant primary materials and by means of interactive class discussion of real and hypothetical situations, students should emerge from the course with both a practical and reflective understanding of the field's key concepts, principles and rules. Seven broad topics are covered over seven two-hour seminars: the nature, function and efficacy of international law; the sources of international law; international legal personality, statehood and title to territory; jurisdiction and immunities; the law of treaties; state responsibility and diplomatic protection; and the legal regulation of the use of force.

## SECOND MODULE

### *MANDATORY COURSES:*

Peter Hay

European Union Law I

14 class hours

This course deals with the institutions involved in the process of European integration (several matters of European substantive law are dealt with in "European Union Law II"). The course deals with the origins of the European Union (ECSC, EEC, Euratom), culminating in the Treaties of Maastrich, Amsterdam, and Nice, analyzes the institutions of the EU (including the law-making process and judicial review), deals with the position of EU law in the constitutional law of the member states, briefly treats the relationship of the EU to third countries (WTO, ACP-countries, bilateral arrangements), and touches upon further EU enlargement. With respect to non-economic institutions, the course deals briefly with the Council of Europe and European Human Rights Convention (particularly as it relates to the EU).

Renáta Uitz

Elements of US Constitutional Law for HR LLM students

28 class hours

This introductory course is intended to familiarize Human Rights LLM students with the precedent based approach to constitutionalism with special emphasis on rights protection in the US constitutional system. The course commences with a short survey of structural issues (including federalism, separation of powers and constitutional adjudication). This is then followed by discussion of select problems of fundamental rights protection in courts using examples of property, equality, free exercise and privacy. Constitutional problems will be presented in their broader historical and societal context. Note that the US jurisprudence on other fundamental rights (such as free speech or freedom of religion will be covered in separate courses in detail during the academic year).

The course aspires to introduce the US constitutional system from a unique, human rights oriented perspective. The primary aim of the course is to make students feel comfortable in a legal setting where court decisions are a primary source of the law and of constitutional rights. In addition, the course hopes to present constitutional rights litigation as a means of defending human rights in a domestic legal system. To this end, students will be encouraged to follow how the operations of government affect human rights and how a real-life controversy transforms into a constitutional case.

Renáta Uitz

Elements of Comparative Constitutional Law

14 class hours

This course compares basic notions and institutions of the German, French, Canadian and UK constitutional systems. Constitution-making is discussed in terms of the conditions of the making of the constitution; the meaning of historical tradition is reviewed. The continental understanding of checks and balances, cabinet dictatorships and the mechanism and basic jurisprudential concepts of rights protection are reviewed. Crucial notions and institutions of separation of powers, judicial review, constitution making and constitutional rights are discussed. The course also provides an opportunity to compare problems discussed in the U.S. context.

Eszter Polgári

Introduction to the Protection of Human Rights in the Council of Europe I – Institutional Framework

14 class hours

The aim of the course is to provide a solid foundation for the forthcoming subjects covering ECHR-jurisprudence. Thus, this introductory course focuses on the human rights instruments and mechanisms of the Council of Europe; a special attention is devoted to the European Convention on Human Rights. Classes and readings will cover among others the procedures under the European Convention (individual and inter-state complaint procedures, advisory jurisdiction, and implementation of the judgments), the scope of the rights covered, and the principles and methods of interpretation. Through the case-studies students will also gain an insight in the jurisprudence of the European Court of Human Rights. In addition, part of the course will explore the activities, competencies and operation of the various other bodies of the Council of Europe.

Marjan Ajevski

Introduction to Public International Law for HR MA students

14 class hours

Public International Law is a well-established branch of law with a wide scope of application and far-reaching implications for virtually every aspect of human activity. Originally aimed at regulating inter-states relations, public international law is increasingly giving rights and imposing duties on non-state actors, such as international and regional organizations, individuals and corporations. This introductory course covers only the basic elements of public international law. It deals with the international settings in which international law operates; the sources of international law; the relationship between domestic law and international law; the basic design of the international system for the protection of human rights and international humanitarian law.

The course will provide exposure to a wide range of learning methods and legal techniques, like hypotheticals, case briefs, debates, essay-writing, etc. The course will try to engage students. At the end of the course, students should demonstrate a basic understanding of the nature and practice of concepts of public international law and the rule of law within the international system of states and an ability to appreciate critically the role of states and non-state entities in an international framework.

Gar Yein Ng

Academic Legal Writing and Research

14 class hours

The objective of this methodological module is to provide the students with the skills and knowledge required for writing an academic thesis in law. It therefore covers essential aspects of academic legal research and writing, i.e.:

- research methods: analytical or black letter research, comparative law research, research in jurisprudence, historical legal research, law-in-context research, and socio-legal research;
- analytical reasoning;
- structured writing;
- issues of style and syntax;
- legal referencing, citations and quotations (including plagiarism awareness);
- writing of a research proposal.

### *RESTRICTED ELECTIVE and ELECTIVE COURSES*

Alexander Blankenagel

German Constitutional Law

14 class hours

The course will first give an insight into the basic principles of Art. 20 of the Basic Law of the FRG. The course will give an outline of the understanding of the basic rights and of the political system in the Federal Republic of Germany. In discussing the basic rights the course will concentrate on general questions and on selected basic rights like for example freedom of speech, freedom of assembly, freedom of profession and property. The political system will concentrate on the main elements that are democracy, rule of law and federalism and will furthermore cover the main aspects of the functioning of the state organs. Democracy will look into the election system, the free mandate and the party system and the problem of direct democracy. Separation of powers and rule of law will again first deal with the system of regulation and then with the specifics like necessity of decision of parliament, delegation of legislative powers, legislative procedure, problems of incompatibility etc. The federal structure will be discussed in view of the reform of the federal system in 2006. The course will include a look at the position of the Federal President and at the internal working of the government. Teaching will use precedents of the German Constitutional Court and will thus give an insight into the mechanism of constitutional control in the FRG.

The books used will be Kommers and Curry and some additional hand-out materials.

Alexander Blankenagel

Russian Constitutional Law

14 class hours

The course will give an introduction into the Russian Constitution. The course will focus on the structure of the political system on the one hand and on the understanding of the basic rights of the citizens on the other hand. Special attention will be given to the new developments of constitutional law in the Russian Federation under Putin, especially in matters of federalism. Another focus will be the adjudication of the Russian Constitutional Court in matters of the political system as well as in matters of basic rights; the powers of the Russian Constitutional Court and its approach to the interpretation of the Russian constitution shall be analyzed in detail.

Susanne Baer

Equality: Law and Policy

14 hours

Equality is a fundamental human right and guaranteed in constitutional as well as statutory law around the world. Equality also marks one of the most challenging and controversial policy fields, ranging from welfare state regulation to policies governing migration and immigration to approaches towards global justice, and addressing ethnicity and religion, gender and sexual orientation, disability and age, etc. In this class, we will discuss different notions of equality, as they can be found in law and policy documents from a variety of contexts, and from critical and "radical" perspectives. Students will gain in depth knowledge of normative understandings of equality, of regulatory options to address inequalities, and of political strategies to work in the field. We will discuss "tools" to systematically address inequalities in law-making and politics. Students will be asked to present information in class. Grading will be based on participation and a paper, thus independent research on a topic students choose in collaboration with the professor.

Susanne Baer

Theories and Methods of Comparative Constitutional Law

14 hours

Why study constitutions from a comparative perspective? What can you gain from comparative analysis? What methods can be used, and where are the limits of comparison? How is comparative constitutional law used in courts, and by legislators, or by lawyers? Is it or should it be ever decisive in cases, as doctrine, or remain merely an inspiration? This class will offer an introduction to comparative constitutionalism and discuss theories and methods of comparative analysis, from functionalism to contextualism, and including critical perspectives developed in postcolonial studies, gender studies, or other critical theory. We will look at constitutional texts, at attempts to categorize constitutional systems, and at case law. Participants should be interested in theory and methodology. Students will particularly profit from this class if they intend to pursue comparative research themselves. They will be asked to present "their" constitutions from a comparative point of view, and we will engage in a mock- process of comparative lawmaking as well as comparative arguments in court.

Károly Bárd

Introduction to the Protection of Human Rights in the Council of Europe II – Art. 6

14 class hours

The course will deal with both procedural and substantive law aspects of criminal justice and focus on the jurisprudence of the European Court of Human Rights. First the relation between human rights and criminal law and the models of the criminal process are discussed. The course covers the types of proceedings to which the guarantees of the right to a fair trial apply, i.e. the way the notion of "criminal charge" is interpreted by the European Human Rights Court. Further, case law on the courts' independence and impartiality, the right to silence on the presumption of innocence, the right to defense, issues related to evidentiary law and witness protection are discussed. In addition to the in depth analysis of the case law of the European Human Rights Court the relevant jurisprudence related to Articles 14 and 15 of the International Covenant on Civil and Political Rights shall also be referred to.

Mordechai Kremnitzer

Human Rights in Emergency Situations

14 class hours

The dilemma concerning the subject stems from the following tension. On one hand, it is plausible to assume that an emergency may justify specific infringements on human rights required for handling the emergency. On the other hand, it is also reasonable to be concerned from abuse of the emergency argument, both as to the decision upon existence of an emergency and as to the implications of such existence on human rights.

As the main example for an emergency situation we shall turn to modern terrorism.

The specific issues to be dealt with are the justification (or lack of it) for special infringement on human rights in emergency, such as freedom of speech, freedom of association, the right of privacy, the right to due process.

Specific measures will be examined, such as torture or special means of interrogation of suspects, administrative-preventive detentions, detentions for bargaining, demolition of houses, disqualification of citizenship, disqualification of parties and lists of candidates, ethnic profiling, targeted killings, special courts.

The proper role of the different institutions will also be discussed; among others: the security services and the judiciary.

Mirosław Wyrzykowski

Human Rights Protectors

14 class hours

The course examines the mechanisms and institutions for protecting human rights within national legal systems and issues relating to the provision of remedies where violations of rights occur or are apprehended. It begins by looking at the constitutional system of human rights protection, the question of rights of access to a court and the protection afforded by constitutional and administrative tribunals. It continues with an examination of the

role played by ombudspersons in the protection of human rights and the role played by State liability as a mechanism of protection. It then assesses the deficiencies in mechanisms for protecting human rights and possible reforms.

Benjamin Cramer

Global Broadcasting and Telecommunications Law

28 class hours

This course examines broadcasting and telecommunications law issues comparatively and in a global perspective. Our discussions on this subject matter will be informed by the ongoing processes of convergence, globalisation, and digitalisation. The first third of the course is dedicated to the constitutional dimension of broadcasting, and constitutional concepts at the national and international levels will be discussed and compared. Free speech issues (including commercial speech) and identity formation in the transnational context will be examined. Issues with cross-border transmission will lead us into discussions of broader problems in telecommunications law. In part two of the course participants will be introduced to global telecommunications law and regulation, with an examination of potential future problems, including the conflict between national security and electronic privacy at the national and international levels. The third part of the course is focused on the competition law assessment of international mergers in media and telecommunications that result in horizontal or vertical integration. This course relies on actual cases and expert legal commentary whenever possible.

Tibor Várady

International Commercial Arbitration

42 class hours

The course covers the following major topics of international (private) dispute settlement: Approaches to dispute resolution (peace and/or justice, patterns of dispute resolution, methods of settling international trade disputes - litigation, arbitration, mediation, conciliation, med-arb, mini-trial, fast-track arbitration); the legal profession in various countries (the status and the role of the legal profession, lawyers acting in another country); the language problem in international dispute resolution; Litigation: Jurisdiction to adjudicate; Simultaneous proceedings in various countries; International judicial assistance; Recognition and enforcement of foreign judgements; International Commercial Arbitration: The Standing of Arbitration within the Legal System (Arbitration versus courts and arbitration with the assistance of courts; The sources of relevant norms); The Authority of Arbitration Tribunals (The arbitration agreement as the cornerstone of the arbitration process; arbitrability); The Arbitrators (The arbitrators - Qualifying and Disqualifying Circumstances; Challenges; Appointment and appointing authorities); Focal Points in the Arbitration Process (Selected Elements of Procedure Before Arbitration Tribunals; The Award; Choice of Law Issues Before the Arbitrators; Arbitration and Provisional Measures; Costs); The Effects and Confines of Arbitral Awards (Deposit, Confirmation, Merger into Judgement; Res iudicata and litispendence; Court Control Over the Award).

Required reading: Tibor Várady, John J. Barceló, III, Arthur T. von Mehren, INTERNATIONAL COMMERCIAL ARBITRATION, Thomson & West, Third Edition 2006

Documents Supplement to Tibor Várady, John J. Barceló, III, Arthur T. von Mehren, INTERNATIONAL COMMERCIAL ARBITRATION, Thomson & West St. Paul, Minn., 2006, Third Edition

Jules Stuyck

Competition Law of the EU

14 class hours

This course aims at giving students an insight in the fundamental principles and techniques of European competition law, with a focus on antitrust (restrictive agreements and dominant positions) and merger control. It will discuss some important cases of the European Court of Justice and decisions of the European Commission applying the competition rules as well as the most important pieces of legislation and quasi legislation in this field.

György Boytha

International and European Intellectual Property Law

14 class hours

Introduction to the development of fundamental principles and means of the international protection of industrial property, copyright and related rights; territoriality, reciprocity and the relevance of universal human right approach; aspects of private international law; direct and indirect applicability of treaties; modern subject matters calling for international protection, such as new plant varieties, biotechnological inventions, topographies of semiconductor chips, or data bases; evolving extension of the law of the European Community to the protection

of various kinds of intellectual property; the interrelationship of ever new treaties and European legal sources relating to the same subject; survey of the accelerating approximation of various traditional legal approaches to intellectual property on both the international and the European Community level; analysis of international and European efforts to cope with new challenges raised by technology and globalization, with special regard to our digital information society, in particular in the USA; interaction between national, international and European law making.

The reading materials are compiled for limited educational purpose partly of sources of law and official documents, partly of selected articles and relevant portions of guidebooks.

Michael Hamilton

Freedom of Speech: European Perspectives

14 class hours

Freedom of speech is a paradigmatic civil liberty, often viewed as a natural extension of the right to freedom of thought, conscience and religion. This course interrogates the core theoretical justifications for free speech including arguments based on truth, democracy, tolerance, and recognition. Classes will focus primarily on the European Convention of Human Rights and the Strasbourg Court's jurisprudence, but will also touch upon the framework of Fundamental Rights of the European Union, and the case law of national courts. The course will examine contemporary challenges for free speech, especially those arising from the regulation of offensive, extremist and hate speech. The course will also explore different forms of speech, such as political campaigning, and wearing religious symbols in public places. It will analyse the interpretation of the legitimate grounds for restricting speech activities in different contexts, asking whether these serve to advance public deliberation, or offer protection from identifiable harms. The course will also raise the implications of an 'information society' for broadcast media, internet regulation, and access to information.

Faculty supervisor: Károly Bárd

Lawyer: Adam Bodnar, Polish Helsinki Foundation for Human Rights

Clinical Course with the Polish Helsinki Foundation

14 class hours

In an ongoing criminal case a select few CEU Legal Studies students will work with Adam Bodnar under the supervision of Professor Károly Bard. Students participating in the clinical course are expected to provide comparative legal research as required by the progress of the case. The course is organized around two intensive workshops and requires substantive individual research throughout the academic year.

The course is the central part of the 'clinical specialization' degree and cannot be taken outside the specialization.

TBA

Clinical Course with the Open Society Justice Initiative

14 class hours

Peter Behrens

Corporations

28 class hours

This course will be devoted to an overview over the most important legal forms of business organizations in Germany, France and England. The basic legal structure (formation, governance structure, liability regime and financing) of partnerships and companies will be compared within the framework of the three dominant legal traditions in Europe. Mention will also be made of EC legislation which is designed to harmonize important aspects of Member States' company laws, and to the development of supranational forms of business associations. The objective of the course is to put students in a position to understand the common structural features of the law of business organizations in Europe. Students will be provided with a detailed syllabus and with comprehensive legislative materials.

### THIRD MODULE

#### *MANDATORY COURSES:*

CAW Instructor

Thesis Writing Course

14 class hours

The MA/LLM thesis is the most important piece of writing in your studies at CEU. It is a test of your ability to carry out research and to write it up in a coherent form. The aim of this course, taught by the Center for Academic Writing, is to guide you through the stages of writing your thesis, focusing on the conventions and process of this type of writing. The course will help you to:

- understand the thesis writing process and develop a timetable for your writing
- become familiar with the structural conventions of thesis writing, particularly the introductory and concluding chapters
- use sources appropriately to support your arguments
- improve your editing skills
- receive individual feedback on your writing

Renáta Uitz

Constitutional Rights in a Comparative Perspective

14 class hours

Addressing the special interests of students in the Human Rights Program, the course offers comparative insights into systems of rights protection in Canada, France, Germany, the United Kingdom and South Africa. Mechanisms of rights protection are discussed in their historical context, in light of traditions and experiences of constitution making. The scope of rights protection in these jurisdictions is discussed alongside procedural issues (judicial review, standing, admissibility). The course also provides an opportunity to compare problems discussed in the U.S. context.

István Pogány

Minority Protection

14 class hours

*Introduction:* This module addresses a range of issues of current importance concerning the recognition and protection of minority rights, particularly the rights of national and ethnic minorities. The course will examine the historical evolution of minority rights principles, the underlying importance of minority rights protection, the scope and effectiveness of the international law of minority rights, the role of global and of regional instruments, the relationship and distinctions between individual rights, minority rights and collective rights, and the difficulties of reconciling notions of state sovereignty with legitimate minority rights regimes. In addition, the course will consider the importance of ensuring that minority rights regimes are not used to negate or subvert the rights of vulnerable segments of minority communities (women, children etc).

*The United Nations System:* The course will explore the contribution of the UN system to the recognition and protection of minority rights and examine the relationship between individual human rights and minority rights in international human rights law. Particular attention will be paid to Article 27 of the International Covenant on Civil and Political Rights and to the jurisprudence of the Human Rights Committee.

*Regional Measures:* Regional measures for the recognition and protection of minority rights are particularly elaborate and extensive in Europe, a response to security and other concerns as well as the expression of common ideological values. The course will consider the extent to which the European Convention on Human Rights accommodates minority interests, the general contribution to the advancement of minority rights of the Council of Europe, of the OSCE and of the European Union. It will focus, in particular, on the Council of Europe's Framework Convention for the Protection of National Minorities, which entered into force in 1998.

*Module Aims:* The module aims to develop knowledge of the international legal principles regulating the protection of minority rights as well as an understanding of the principal institutional structures (global and regional) for the implementation of the international law of minority rights. The course will foster an awareness of the key issues surrounding the further development of the law of minority rights and of current initiatives for change. It also aims to provide an understanding of the major philosophical debates concerning minority rights and of the social, political, economic and historical context of minority rights concerns.

Csilla Kollonay-Lehoczky

Feminist Jurisprudence

14 class hours

The course will enable students to analyze law from a gender perspective. It is to provide them with an introduction to the fundamental ideas and to the greatest thinkers of feminist legal theory that developed on the grounds of challenging traditional legal categories. The course will first discuss the concept of gender, making students familiar with the various ways of putting questions about equality and difference between men and women, separating the biological from the social construct in the concept. The course will approach sex and gender from the power-aspect attached to gender that has led in society and law to the creation of a "dominant" and a "subordinate" class. Attached to the issues of female and male identities a short introduction to "queer theory" will be given. Reproductive freedom, domestic violence, rape and commercializing women's body are the specific thematic issues where the gendered approach of law generates the strongest critique of feminist legal

theorists. Upon a short introduction to these subjects the course will be closed with a general discussion of sex-biased legal reasoning.

### *RESTRICTED ELECTIVE and ELECTIVE COURSES*

Wiktor Osiatynski

Individual and Human Rights

28 class hours

This course examines the universality and applicability of the concept of human rights in the world in which liberal democracies co-exist with dictators and face abuse of rights, ethnic cleansing and genocide. It is expected that after taking this course a student will be able to understand the concept of rights in the perspective of various cultures, to distinguish which rights and mechanisms for their protection are uniquely Western and which are truly universal as well as to accept the minimum of rights which should be universally protected by international community. To meet these objectives we will look into the origins of individual rights before and during the Enlightenment. We will see the rejection of rights in the nineteenth century and their re-emergence as human rights after World War II. The "Revolution of Rights" in the 1960s and the role of human rights during and after the Cold War will be discussed. Rights will also be analyzed in context of other political and legal ideas and institutions, such as democracy, constitutionalism, market and welfare. The role of rights in various ideologies and cultures will be compared. Finally, the limitations of the concept of rights in social relations and individual life will be discussed.

Károly Bárd

Human Rights and Criminal Justice

14 class hours

The course in addition to the analysis of the meaning of the presumption of innocence is devoted to the discussion on limits of prosecuting crimes resulting from the states' duty under the European Human Rights Convention to respect the right to privacy, family life and freedom of expression. Also the extent to which states have the duty to criminalize and prosecute certain conduct in order to comply with the ECHR will be dealt with. The prohibition of retroactive legislation and the limits of trial in absentia are to be discussed as well. In addition to the in depth analysis of the case law of the European Human Rights Court the relevant jurisprudence related to Articles 14 and 15 of the International Covenant on Civil and Political Rights shall also be referred to.

Renáta Uitz

Separation of Powers: The Political Branches

14 class hours

Madison's phrase on how "ambition must be made to counter ambition" is one of the best-known lines of the Federalist Papers. The course focuses on techniques, constitutional designs and practices which are meant to carry out or undermine this aim. Key concepts and problems of horizontal separation of powers are explored on the basis of examples primarily from the U.S., Germany, France and Eastern Europe. Problems are discussed in their historical, intellectual and political context.

Iván Székely

Archives, Evidence and Human Rights

14 class hours

Teaching Fellows: Iván Székely, András Mink, Csaba Szilágyi, Sergey Glushakov

The Open Society Archives ([www.osaarchivum.org](http://www.osaarchivum.org)), one of the most significant Cold War and human rights archives in the world, offers a one-credit course to the students of the Human Rights Program of the Legal Studies Department. The course includes an introduction to the history and philosophy of preserving recorded memory and gives a short overview of the basic archival functions and types of modern human rights archives. Using OSA as a model, it will bring the structure, database, catalogues, and documents of such an archive closer to the students and give specific and practical examples on how to track down and research archival material, as well as evaluate the findings. A new electronic system of recording and preserving reports on human rights violations will be demonstrated. The lectures will also analyze the legal and ethical problems of using human rights related documents containing personal data, as well as basic provisions of archival law. The students are expected to explore the possibilities and limitations of using textual, audiovisual, and electronic archival documents as evidence in national or international criminal procedures. Historical case studies will illustrate the problems of using and evaluating evidence, the historical, ethical, and legal aspects of making justice for past abuses and the difficulties of making state leaders liable for human rights violations. The course consists of five in-class lectures and two archival workshops. Grading is based on: Class participation and a short take-home essay on pre-defined topics based on consultations and individual research into OSA documents (to be submitted two weeks after the Module is over).

Tamás Korhecz  
Law and Ethnicity  
14 class hours

The course is divided into two parts: Law and Ethnicity I, and Law and Ethnicity II. The first part will be taught in 10 class hours, and will be offered primarily to Nationalism Studies students. The second part will take 14 class hours, and this will enable students whose credit unit is 14 class hours to take it as a 1-credit course. Parts I and II may be taken as a two-credit course by all CEU students except Legal Studies students (whose credit unit is 14 class hours). Part II is offered to Legal Studies students as a 1 credit course.

Law and Ethnicity I

- Attempts to Chart Interethnic Justice -

Part I is a sequence of related case studies devoted to chart interethnic justice in the former Yugoslavia. Students will be expected to present and to discuss various plans drafted during the Yugoslav crisis (1991-1999).

Law and Ethnicity II

Part II will concentrate on the following topics:

Introduction

1.a Group-neutral and group-sensitive regulation

1.b The issue of collective rights

1.c Legal structuring of equality and, or balance

Rights of groups "who came first"

Law and Ethnicity in the former Yugoslavia

3.a Group rights and denial of group rights

3.b Ethnicity and property rights

4. Administrative structuring of territories in spite of (or the sake of) ethnic concentration

5. Language issues

Required reading:

Tibor Várady, Law and Ethnicity I - Attempts to Chart Interethnic Justice, Budapest 2006 (Reader)

Tibor Várady, Law and Ethnicity II, Budapest 2006 (Reader)

Judit Sándor

Patients' Rights in the Twenty First Century

14 class hours

This course aims at providing theoretical and legal foundations of patients' rights. Although bioethics and international human rights have developed separately, some aspects of bioethics have recently been interpreted along human rights principles. The interrelation of the two disciplines provides an exciting excursion into a new legal and ethical domain.

By now patients' rights have been incorporated into most of the national legal systems. However, the previously defined rights are often challenged by the new advances in biomedical sciences and the reforms of the national health care systems. This is a field of concern which touches upon peoples' most intimate interests. It deals with the matters of human reproduction, and end-of-life issues; biodiversity; genetic testing, biobanks, and genetic data storage. Bioethical norms also seek to regulate the conduct of scientific research; the access to and safety of technology solutions; the availability and quality of medical services, essential medications, and other preconditions for health. New questions constantly test the frontiers of patients' rights; for example, does right to self-determination include the right to decide over someone's own biological samples? How, if at all, should we attempt to influence the future biology of the species through the use of genetic knowledge? The doctrine of informed consent is largely an outcome of principal court decisions. Issues related to frontiers of life, euthanasia and abortion, embryo research and transplantation have captured public interests more than other medical decisions. Therefore this field is rich in court cases, laws and public health policies. We shall analyze cases and texts in a comparative manner but we shall also look at the limits of law in this field.

During the course the students will analyze normative texts and judicial cases that contain elements from both the human rights and bioethics perspectives. The Reader and the attached bibliography shall provide the basic literature for further studies. The course will develop legal and policy skills in the students who will have the opportunity to discover a new and rapidly developing field of contemporary patients' rights.

Jeremy McBride  
Human Rights Remedies  
14 class hours

The course examines issues relating to the provision of remedies where violations of rights occur or are apprehended. It begins by looking at a review of the international standards for the provision of remedies for human rights violations and an examination of the various remedies that might be required (ranging from the effect of invalidating legislation and administrative acts, the provision of damages, the use of injunctive and declaratory relief and the use of "alternative" remedies such as the exclusion of evidence). The course then looks at the use of criminal responsibility as a remedy and concludes with a discussion of the remedial problems

relating to waiver, immunities and impunity. It concludes by assessing the deficiencies in mechanisms for protecting human rights and possible reforms.

Annan Astrid Voskuil

Decent Work in the Globalizing Economy

14 class hours

This course will focus on the innovative legal policies which the International Labour Organization has been developing in the past decade to promote a fair globalization. The novel concept of decent work integrates these policies within one coherent legal framework.

In so far as the process of globalization has been unsustainable it has generated economic hardship, social exclusion and imbalances both between and within countries, including within their labour markets. From a legal perspective that process is characterized *inter alia* by deregulation and the declining role of the State, the 'privatization' of international norms and a weakening of rights-based social protection. In response to the challenges the ILO's decent work agenda aims to pursue a new kind of globalization based on sustainable, fair and environmentally sound socio-economic growth as well as on the rule of law. The aim of the course is to provide an introduction to the ILO system and to the concept of decent work devised to transform the globalizing environment in which international labour law operates. In light of this aim the following issues will be discussed during the course:

- the institutional framework of the ILO, including its supervisory bodies, and the significance of its tripartite nature in a globalizing economy.
- international labour standards and how they are made, considered both from an historical and a comparative perspective (in relation with similar norms adopted within other international organizations).
- the international labour law concept of decent work.
- decent work-related innovative standards and follow-up mechanisms.
- evolving interpretations of the ILO's mandate in view of the untraditional topics included in the decent work agenda.
- the role and functions of the ILO within the United Nations and in relations with other international actors pursuing decent work goals.

Michael Hamilton

Freedom of Speech: United States

14 class hours

Freedom of Speech in the US aims to provide an overview of First Amendment jurisprudence, tracing the evolution of this freedom in its political, historical and social context. The course will draw heavily upon the study of cases and other legal materials, and begins with an introduction to the theoretical foundations of free speech and countervailing concerns (drawing, in particular, from critical race theory). Topics include categories of protected and unprotected speech (such as fighting words and obscenity), the balancing of competing values and interests (such as privacy and defamation), and key regulatory principles such as the public fora doctrine, content-neutrality, the notion of a clear and present danger, and the nature of 'time, place and manner' restrictions.

TBA

Human Rights in Africa lecture series

8 lectures

The lecture series consists of 8 separate lectures held by four different guest lecturers, each of them focusing on specific Human Rights issues on the African continent. The titles and topics of the lectures will be announced in due course. The course yields one pass/fail credit for students who write a take-home paper related to one of the lecture subjects.

Renáta Uitz

Privacy: The Body

14 class hours

Constitutional privacy protection reaches beyond means shielding the home and private correspondence from uninvited governmental intrusion and surveillance. The course explores matters relegated to this penumbra: the most personal and private human decisions about one's bodily integrity, decisions which are commonly associated with the protection of individual self-determination (private autonomy). Issues covered include questions in human reproduction (including contraception, abortion, selective abortions and surrogate motherhood), transformations of the human body (including female genital cutting), and acceptance and refusal of medical treatment (including consent to life sustaining medical treatments and problems of assisted suicide). Note that

problems in the field of sexuality and human rights are covered by a separate course in Module 6 on Identity, Gender and Human Rights (E. Polgári - R. Uitz).

In such private decisions constitutional and human rights lawyers all the more often encounter the frontiers of their craft. It is easy to see that many of the problems addressed arise in a medical(ized) setting. One also gets to sense the fine line between the public and the private sphere in a modern state which aspires to or -sometimes-refuses to care about its citizens. The final glaze to the debate is applied when reservations about universalism and objections on the grounds of cultural relativism enter the scene.

Via a comparative analysis of relevant jurisprudence the course challenges all participants to consider the extent to which claims associated with the protection of bodily privacy can be addressed within a constitutional or human rights discourse, relying on the language of rights before courts of law. The course aims to supply students with a sound reading of leading cases and existing regulatory frameworks, and then reply on this sound foundation to inspire students to develop novel strategies and routes of regulation.

Assessment is based on short written assignments, in-class advocacy and group projects, and a short individual research essay on a topic of the students' choice.

Petra Bárd

EU Constitutional Law

14 class hours

The course consists of fourteen class hours dedicated to providing a thorough and practical introduction to comparative constitutional law and human rights law students to the history of integration, institutions and law-making mechanism of the European Union. The basics of the *acquis communautaire*, the three pillar system, horizontal and vertical separation of powers in the EU, the four freedoms, the foundational treaties, the Single European Act, the Maastricht Treaty, the Amsterdam Treaty, the Treaty of Nice will be discussed, the Treaty establishing a European Constitution will be touched upon and the Lisbon Treaty will be addressed. Students will be introduced to actual cases to exemplify how the EU's judiciary, mainly the European Court of Justice works, how its power is used to create and interpret the law, and an insight will be given into the practical impacts of its decisions.

Upon completion of the course students will be able to understand of the vertical and horizontal separation powers in the European Union; to understand and criticize the actual operation of the EU's legal system; to demonstrate substantial knowledge of the relation between EU institutions and the EU's law making process; to understand the relation of EU law and domestic law, the importance of the supremacy doctrine and the concept of direct effect; students will be able to make a distinction between remedies in a national court setting and before the ECJ, and will have a good understanding of the substantive law of the EU, more particularly of the four freedoms, competition policy and non-discrimination.

Petra Bárd

Fundamental Rights in the EU

14 class hours

The purpose of this course is to give an overview of the protection of fundamental rights within the European Union legal system.

In the framework of the course after a brief overview of the European human rights protection mechanisms, the relevant provisions of the primary sources of EU law, and the ECJ's related case law will be discussed. The distinction in the protection between "us" and "them" will be demonstrated with cases involving European citizens and third country nationals. Several classes will be devoted to the substantive articles of the Charter of Fundamental Rights, its scope, legal force and applicability, as well as its relation to the European Convention on Human Rights. A distinction will be made between fundamental rights in the various pillars. The EU Agency for Fundamental Rights will be discussed and its reports will be used as reference to specific human rights issues. Special emphasis will be placed on the scope and impact of the EU Anti-Discrimination Directives, sex equality issues and discrimination on the basis of disability. Differing national sensitivities and a threat to the supremacy doctrine will be discussed through the case of the European Arrest Warrant. Finally, the case of data protection in the third pillar will be singled out in light of the EU's fight against terrorism.

András Sajó

Emotion and Reason in Constitutional Law

14 class hours

The reason-emotion opposition that lies at the heart of the legal regulatory model is scientifically unsustainable. Reason (human logic) systematically errs because of the intervention of emotions in decision-making. This interdisciplinary course will discuss the role of emotions in the shaping of modern constitutions and the human rights regime, and the influence of public and judicial sentiments in constitutional adjudication.

Case studies include the abolition of slavery, the making of the French Declaration of 1789, post-totalitarian constitutional dilemma, the place of sensibilities in free speech and shame as a source of privacy.

Francis Gabor

Academic Legal Writing and Research

14 class hours

The objective of this methodological module is to provide the students with the skills and knowledge required for writing an academic thesis in law. It therefore covers essential aspects of academic legal research and writing, i.e.:

- research methods: analytical or black letter research, comparative law research, research in jurisprudence, historical legal research, law-in-context research, and socio-legal research;
- analytical reasoning;
- structured writing;
- issues of style and syntax;
- legal referencing, citations and quotations (including plagiarism awareness);
- writing of a research proposal.

Tibor Tajti

Comparative Secured Transactions Law

28 class hours

This course will provide a comparative survey of leading secured transactions laws, which is a foundation of every credit and free market economy. Secured transactions is undoubtedly one of those emerging areas of commercial law that has been in the center of developments in international commercial law in the latter half of the 20<sup>th</sup> century and – given that secured transactions is now on the agenda of almost all bodies dealing with the harmonization of commercial law – which will continue to play a dominant role in the future in the context of commercial law.

In the first part, starting with the analysis of the relationship of credits – as one of the cornerstones of free market economies – versus secured transactions and the basic common law and civil law categories that form the foundations of this exponentially growing branch of law, the focus will shift to Article 9 of the Uniform Commercial Code (United States). The most important aspects of Canadian, English, German and French respective laws will also be discussed. This includes such already internationally well-known legal institutions as the English fixed – floating charge tandem, the German security transfers and retention of title security devices, or the unique self-help enforcement of Article 9 etc. Also, adequate attention will be devoted to the role bankruptcy and consumer protection plays in secured transactions context.

In the second part of the course the emphasis is on various financing techniques that rely on secured transactions law and which could thus be named as ‘applied secured transactions’. Here, the emphasis will be on the role secured transactions in such developed financing technique contexts as title financing (conditional sale, leasing etc.), receivables financing, asset securitization and project finance (etc.); besides dealing with the essence of these financing forms themselves.

In the last part of the course the attention will shift to problems related to coordination and conflict of various secured transactions laws in international context. Finally, adequate space is provided to the contemporary harmonization efforts of secured transactions (EBRD, UNCITRAL, and UNIDROIT) and to the related reform efforts in Eastern and Central Europe in the 1990s.

It is one of the central aims to make the course useful to both practitioners and for those being more interested about the theoretical aspects of commercial law. Moreover, as the reform of this branch of law has already begun or is imminent not just in the Eastern and Central European region but in other developing economies as well, the material to be covered should be valuable also for all those being connected with the transitory process in their respective countries.

## RESEARCH SEMESTER

### FOURTH MODULE

#### *MANDATORY COURSES*

CAW Instructor

Thesis Writing Course

14 class hours

The MA/LLM thesis is the most important piece of writing in your studies at CEU. It is a test of your ability to carry out research and to write it up in a coherent form. The aim of this course, taught by the center for Academic Writing, is to guide you through the stages of writing your thesis, focusing on the conventions and process of this type of writing. The course will help you to:

- understand the thesis writing process and develop a timetable for your writing
- become familiar with the structural conventions of thesis writing, particularly the introductory and concluding chapters
- use sources appropriately to support your arguments
- improve your editing skills
- receive individual feedback on your writing

## *RESTRICTED ELECTIVE and ELECTIVE COURSES*

Eszter Polgári

Human Rights Internship Credit

(at least 3 weeks)

HR students may participate in internship programs with leading national and international NGOs in Hungary during the Research Module. The internship must last at least three weeks and culminate with a final project report. Before registration, the internship project proposal is to be approved by the host organization and the Special Projects Officer. After the successful completion of the three-week internship the student may receive one credit for the internship, provided that their final internship report is accepted by the Special Projects Officer.

Michael Hamilton

English Constitutional and Administrative Law

14 class hours

This course will introduce the sources and institutions of constitutional law in England and Wales. In particular, the course will focus upon the doctrines of parliamentary sovereignty, ministerial responsibility, the Royal Prerogative, and the rule of law. Judicial review of administrative action will also be covered, with emphasis on the impact of the Human Rights Act 1998. The course will probe the evolving nature of the UK's unwritten constitution with regard to issues such as devolution for Scotland, Wales and Northern Ireland (and related notions of decentralisation and localism) as well as the establishment of extra-judicial mechanisms (such as public inquiries under the Inquiries Act 2005).

Michael Hamilton

Freedom of Assembly

14 class hours

Demonstrations, rallies, strike actions, pickets, 'flash mobs', parades, and processions are all forms of public assembly. As a fundamental freedom, the protection of the right to freedom of peaceful assembly entails positive obligations on the part of the State. This course will explore the challenges in fulfilling these obligations, and the parameters established by national and supra-national courts in relation to public assemblies. Particular attention will be given to the regulation of, and challenges in policing, assemblies which raise issues of identity politics (such as Gay Pride parades, Orange parades in Northern Ireland, and neo-Nazi assemblies in the US). The course will further seek to explore the extent to which public dissent should be facilitated in constitutional democracies (with particular regard to the role of public assemblies in representing 'We, the people' during moments of political upheaval or transition). The course will raise issues relating to competing demands upon public space (including its privatization) and the rights of others that might be affected (including commercial interests). Finally, and drawing upon international examples, the course will examine the procedural mechanisms which might be devised to best ensure adequate protection of the right to assemble, as well as the rights and freedoms of others.

Hans-Eric Rasmussen-Bonne

Drafting and Negotiating International Contracts

14 class hours

Drafting contracts, and in particular international contracts, is a risky business. It is rather a skill developed through experience and not something that can easily be acquired through reading textbooks. Drafting an agreement is often one of the most difficult tasks confronting a young practitioner. The same is true of negotiating such contracts.

The course is structured as follows:

Part A:

- I. Risks in international contracts and instruments to mitigate these risks
- II. Identification of the interests of the parties involved and legal ways to realize these interests
- III. Use of checklists, precedents and standard forms
- IV. Structure of an (international) contract; the basic requirements of a well-drafted contract, how to organize the proper representation of the parties

Part B:

- I. International Sales Contract (e.g. documents, payment terms and securing payment, choice- of-law and choice- of-forum-clauses)
- II. Issues of International Distribution Contracts (e.g. commercial agent, distributor and joint venture)
- III. International Mergers & Acquisitions (e.g. Letter of Intent, Confidentiality, Due Diligence Process, Basic Legal Issues of an M& A transaction)

IV. Specific Business and Legal Issues of Venture Capital Investments in technology-oriented companies (e.g. clauses protecting the investment; transfer of technology issues)

We will always pay attention to negotiating skills and the impact of cultural differences.

Literature:

Anderson, Mark / Warner, Victor, *Drafting & Negotiating Commercial Contracts*, Tottel Publ., UK 2007

Bortoletti, Fabio, *Drafting and Negotiating International Commercial Contracts, A Practical Guide*, ICC, 2008

Csilla Kollonay-Lehoczky

Comparative Social Protection

14 class hours

The special character of the course – bringing human rights and business law ideas and students into one class – is based on the collateral interrelationship between social protection and social security on the one hand and the healthy operation of the market as well as political democracy and the guarantee of human rights on the other. The course starts with a short introduction to the historic patterns of welfare regimes the legal and institutional structures of social protection and also to the typical situations of the need for assistance (such as inability to work due to illness, age, invalidity or lack of available job). The matching legal solutions will be presented by making comparison between the European and North American approach (public v. private, collective v. individual, insurance v. solidarity/assistance). Special attention is paid to the ongoing structural reforms and privatization of health care and pension systems with particular regard to the problems confronting the Central-East European countries and also some other countries. The course aims at making students conversant in the use of the most important terms and concepts of the pension systems of the world.

Boldizsár Nagy

Asylum, Refugees

14 class hours

At the end of 2006 there were at least 9.9 million people who had been forced to leave their home and seek asylum abroad without having been integrated into their new country. This was the first year after a longer period when the number of refugees worldwide increased almost by a million. Further millions were "of concern" to UNHCR including more than 12.8 million internally displaced persons.

This course investigates forced migration as a social phenomenon in legal context. Heavy emphasis will be put on the evolving scholarly and judicial interpretation of the UN Convention Relating to the Status of Refugees and to the most recent European developments, including the formation of the second phase of the common European asylum system and the debates surrounding it. A planned visit to UNHCR's Budapest Branch office (and/or guests from the fieldwork) will bring life to the abstract knowledge.

The course relies on the active participation of the students and normally its final shape adjusts to their wishes. No specific legal background is required. An elementary familiarity with the basic concepts of the sources of international law (treaties, customary law) is welcome. Attendance, participation (occasionally including a team report) and a final written exam are the basis of evaluation.

Gar Yein Ng + HRSI

Human Rights in Practice Workshop

14 class hours

This course is a practical opportunity to conduct research on different human rights issues that OSI programs are dealing with and to develop advocacy strategies on how to remedy the situation from an NGO perspective.

The course has three components:

1) A research phase: students wishing to take part in the course will select a topic from the list attached and will conduct research on this topic with the respective OSI program; this will take part in the research module (January-April) or can start earlier.

2) Writing an advocacy strategy paper: in the first week of Module 5 (April 5-12) students will have a class on advocacy strategy development conducted by an NGO practitioner; following this, students will have to write an advocacy strategy paper using the information collected in the research phase; suggested deadline for the submission of the paper - April 26

3) Presentation phase: after a class on presentation skills given by the Center for Academic Writing, students will present their papers in front of the class and representatives from OSI programs.

Students participating in the course receive one credit from LSD and a grade based on the research, the paper and the presentation.

Gar Yein Ng

French Constitutional Law – Foundations

12 class hours

This course shall introduce the French Constitution and institutions of constitutional law in France. Most important is the understanding of semi-presidentialism, and the roles of parliament, and the judiciary. Furthermore, the course will examine the evolving role of the Conseil Constitutionnel. Having examined these powers of state, the course will introduce the compositions of these powers. The impact of the European Union membership will also be covered in relation to the French Constitution.

Uwe Puetter

Jean Monnet Module on European Integration

48+8 class hours

This is an advanced level course on policy-making in the EU. It is aimed at students who have already acquired some knowledge of core EU policies and decision-making structures. The course adopts an interdisciplinary approach, with a particular focus on political sciences, international relations, legal perspectives, economics, sociology and history. The course focuses on the main decision and law-making institutions and processes in the enlarged EU paying particular attention to institutional adaptation and change. At a policy level the class highlights key governance challenges in the main areas of EU activity, including single market related policies, justice and home affairs and citizenship rights, foreign and security policy as well as trade and development relations.

Dalma Demeter

Wilhelm C. Vis International Commercial Arbitration Moot

14 class hours

CEU is one of the participants of the international moot court competition devoted to the Vienna International Sales Convention (CISG, 1980) and international commercial arbitration (see: [http://en.wikipedia.org/wiki/Willem\\_C.\\_Vis\\_Moot](http://en.wikipedia.org/wiki/Willem_C._Vis_Moot)) and has been represented by one team on the Vienna finals for the last ten years. Students who actively participate in all the activities from research, drafting of the memoranda for the claimant and respondent, oral hearing rehearsals and finals in Vienna may earn one credit upon the approval of the Program Chair. The department is normally in the position to cover the costs of travel and stay in Vienna for those team members who will be selected to represent CEU in Vienna. Rehearsals with the teams from other universities are also normally organized (Miskolc University Law School, ELTE Law School Budapest, Belgrade Law School, Zagreb Law School, Ljubljana Law School).

Csilla Kollonay-Lehoczky

Labour Law of the European Union

14 class hours

Starting from the very few core norms of the Treaty of Rome on social and employment matters, this course will give an introduction to the development of the legal instruments relating to working conditions within the European Union developing from instruments merely conditioning the internal market into instruments of protection of fundamental values common to the member states. The first, biggest block (of three class meetings) of the course will cover the directives born in reaction to the growing mobility and flexibility in the common market. Provisions regarding labour contract, working conditions and labour standards will be followed by norms providing guarantees in vulnerable situations such as company restructuring, group dismissals, company transfers and liquidation. A second major block (of two class meetings) will address issues of equal treatment, producing the largest case law of the ECJ in the area of employment and since 2000 growing far beyond the original economic boundaries. The last block of topics will address the role of social dialogue within the shaping of working conditions as well as in the constitutional system of the EU and its member states.

Matthias Mahlmann

Perspectives and Problematic of Human Dignity as a Legal Concept

14 class hours

Human dignity has become one of the most influential legal concepts of our time. It is commonly believed that human dignity is at the base of the international human rights culture, sparked by the Universal Declaration of Human Rights. Human dignity is part of the positive legal catalogues of fundamental rights in different constitutional systems. It has been incorporated in supranational and international human rights law by courts, even if the respective system does not contain an explicit reference to it.

Recently, human dignity has been discussed with renewed interest because certain legal problems appear to be solvable only in the lights of its commands. Measures of counter-terrorism, torture or bioethical question are intriguing examples of these problems. On the other hand profound scepticism is powerfully formulated against the concept of dignity. For many observers it appears because of its vagueness and opacity as a door opener to irrationality and ideology. It is not a means of the enlightenment, but of the corruption of human rights law.

The course will reconstruct the content of the concept of human dignity in a comparative perspective and assess the merits of its recent fundamental critique.

Matthias Mahlmann  
The Theory of Fundamental Rights  
14 class hours

The second half of the 20<sup>th</sup> century is marked by the growth of a human rights culture. Human rights form now something like a secular Decalogue of fundamental normative orientation. The concept of human rights raises a plethora of difficult and challenging questions. The attempt to answer these questions leads to the very theoretical core of the law itself. The course will first look at the history of ideas to give contemporary debates an adequate background without theoretical naiveté. It will then turn to analytical and structural theories of rights to develop an adequate formal concept of what rights are about. Finally, questions of substantial contents and their legitimacy will be discussed. Throughout, the discussion will draw from concrete examples of the contemporary adjudication of fundamental rights to avoid lofty spheres of deficient abstractness. As a result of these reflections, it should become clearer how the idea of fundamental human rights has developed, what its real content is, what role the theory of fundamental rights has in legal adjudication and how a catalogue of material rights can (and cannot) be justified in an age of profound ethical scepticism.

Roger Errera  
Judicial Review of Administrative Action in French Administrative Law  
14 class hours

The course will begin by focusing on the role of judicial review as one of the basic components of the rule of law and as a means of accountability of the Administration. The fundamental characteristics of the French legal and judicial system will be then analyzed, as well as the set-up of administrative courts. Special attention will be given to the place of the Conseil d'Etat. Remedies will be analyzed. Both French administrative law and judicial review have undergone deep changes since the 1970s. The course will comment on their causes: new domestic legislation; the growth of constitutional law; international human rights instruments and the case law of the European Court of Human Rights. The main instruments devised and used by the courts will be studied: procedural rules (standing; disclosure of documents); affirmation of general principles of law; review of reasons. The main features of the case law relating to the extension of the liability of the Administration will be commented.

Leonard Hammer  
International Humanitarian Law  
14 class hours

This course introduces students to key issues concerning international humanitarian law. The goal of the course is to provide an overview of international humanitarian law and consider the role of humanitarian law in the international realm. Some of the issues to be addressed include the role of human rights, occupied territory, unlawful combatants, torture and IHL, and cultural property. There will be an examination of treaty texts, recent research, and cases before international bodies.

Vladimir Pavic  
Legal Aspects of Internet and Electronic Commerce  
14 class hours

The course examines the impact of the Internet and other information technologies on some of the traditional legal concepts of civil law. While the preponderance of the case law still comes from the United States, the European Union has been at the forefront of traditional regulatory efforts in the field of electronic commerce. The course will deal with the structure (architecture) of the Internet and the influence of its architecture on the attempts to regulate it. Some basic concepts will be introduced as a background for legal problems arising. Other areas of focus include the concept of electronic commerce, domain names distribution and dispute resolution, regulation of electronic and digital signature, certain aspects of electronic contracting, data protection and problems of jurisdiction and the conflict of laws. Technical expertise is not a requirement for course enrollment. A significant part of the grade will be based on in-class participation and 1-2 written assignments.

## FIFTH MODULE

### *RESTRICTED ELECTIVE and ELECTIVE COURSES*

Roger Errera  
Speech in Context  
Speech and Privacy; Press Privileges  
14 class hours

The course will begin by a general reflection on the foundations of freedom of speech and on its formulation in domestic and international instruments. Special attention will be given to the balancing of competing values and interests: individual rights, such as protection against libel and of privacy, or societal values, as illustrated by group libel or hate speech laws. Privacy will be studied as a component of the rights of personality. The contents and scope of this legal category will be explored, as a preface to the question: What are the foundations of a right to privacy? The attitudes and answers of different legal systems will be analyzed: Britain, France; Germany, the USA, together with the pertinent case law of the European Court or Human Rights. The course will also address the following question: Should the press and journalists enjoy some privileges, e.g. in relation to the disclosure of sources or searches and seizures? If so, to which extent and with which qualifications? The law and practice in France, the US and Britain will be commented, with the recent case law of the European Court of Human Rights.

David Moore

Civil Society Law

14 class hours

Course Description: The legal framework for civil society is no longer an esoteric subject. It has become front page news and the subject of high-level diplomacy. Civic space is vigorously debated in international fora, national legislatures, and community meetings. Indeed, we are witnessing a contest of ideas that will influence the future of civil society.

"Civil Society Law" explores the legal framework for civil society, and legal issues affecting civil society organizations (CSOs). The course seeks to provide students with legal fundamentals in two ways. First, the course aims to provide the theoretical and substantive knowledge base regarding civil society legal issues. To this end, the course will expose students to a wide range of topics, including: international law and freedom of association; national legislation affecting the CSO lifecycle; public benefit status and tax law; economic activities and public policy activities; and cutting-edge issues such as the backlash against civil society and democracy promotion, and civil society and counter-terrorism. Secondly, the course aims to develop students' legal skills by challenging them to confront actual legal problems through practical exercises. To this end, students may be asked to play the role of lawyer, law drafter, judge and/or advocate in a simulated clinical setting.

Students will be assigned regular reading materials, and tasked with practical exercises, that may require both written and oral submissions. Students' grades will be based on classroom participation, the quality of written and oral work during the course, and a final examination.

Daniel Smilov

Political Rights in Comparative Perspective

14 class hours

The course examines the definition and the scope of protection of political rights in a comparative perspective. It starts with a review of some major theories of adjudication and interpretation of political rights; the focus is mainly on the rights to equality, freedom of expression, association and participation in political settings. Then the course explores selected constitutional controversies from the US, Germany, UK, and the ECtHR. Two types of questions are addressed. First, what forms of empowerment of citizens to participate in the governmental process, and to hold governments accountable, are available in different political regimes. In other words, the course explores the necessary conditions, which turn the citizen into an active participant in a political community. Secondly, what types of legitimate restrictions on political rights can a state impose on its citizens and officials. Here, issues such as militant democracy, constitutional requirements of political loyalty in the public service, and restrictions on political patronage are discussed.

Finally, the course examines the impact of globalisation on political rights. Supranational entities, such as the EU, compete in terms of authority and legitimacy with the traditional nation states: the question is whether this competition strengthens or dilutes political rights.

Daniel Smilov

The Law of Democracy: Parties and Elections

14 class hours

The course explores some of the major issues concerning the relationship between law and democracy in two areas of regulation - elections and political parties. The course focuses on the constitutional protection of electoral rights mainly in the following jurisdictions - the US, Germany, the UK, as well as the jurisprudence of the ECtHR.

The course further deals with some constitutional problems concerning the regulation of political parties. It examines constitutional and legal requirements on the establishment, registration, membership, and operation of political parties, as well as the rules on party and campaign finance. The interrelation between major institutional and structural features of the regimes (parliamentary-presidential character, strong parties - weak parties) and basic constitutional constraints, as freedom of speech and equal protection, are in the focus of discussion.

Michael Hamilton  
Civil Rights and Liberties in the United Kingdom  
14 class hours

This course will explore the practice of rights protection in the UK under the Human Rights Act 1998 (HRA) since its entry into force on 2 October 2000. The course will analyse in detail the core provisions of the HRA and the obligations (on the judiciary and public authorities) which it created. To illustrate and assess the impact of the HRA, we will draw on UK case law across a range of core rights. Key areas will include judicial decisions relating to anti-terrorism legislation, and both substantive and procedural aspects of the right to life. The course will also touch upon contemporary debates concerning the role of National Human Rights Institutions and an entrenched UK-wide Bill of Rights. Ultimately, the course asks whether the HRA represents a significant departure from the precarious nature of rights protection under the previous common law model.

Michael Hamilton  
Police Practices  
14 class hours

This course will examine the exercise and regulation of police power in both stable constitutional states and transitional societies. Policing represents a key interface between communities and the State, and the legal regulation of police powers is therefore highly significant. Beginning with an overview of the roles of policing, the course will review the regulation of different powers (such as stop and search, arrest, entry, seizure, detention and questioning), outlining the relevant human rights jurisprudence. Particular emphasis will be placed upon public order policing, and policing minorities. The course will also provide an opportunity to examine police oversight and accountability mechanisms, and issues relating to police legitimacy, community partnerships and police reform.

Lester Mazor  
Law and Society  
14 class hours

Discussion of the relation between law and society is at least as old as Aristotle, but the modern history of the subject begins with European scholars such as Eugen Ehrlich, Emile Durkheim and Max Weber, and of course Hegel and Marx. Important recent general theory is found in the works of Luhmann, Foucault and Habermas. Theory existed long before there were many empirical studies. In the 20th century a substantial body of empirical work began to appear. This course will examine both the theories and a sampling of the empirical work, emphasizing methodologies, principal findings, barriers and challenges to knowledge in this field. Preparation for and participation in class discussions is required.

One or more assigned papers plus a final examination.

Cole W. Durham  
Freedom of Religion – The International System  
14 class hours

This course will introduce students to the international norms that provide for the protection of freedom of religion or belief. The course will analyze the key relevant norms in the UN system, under the European Convention, within the OSCE, and within other regional human rights systems. Particular attention will be paid to relevant decisions of the UN Human Rights Committee and the European Court of Human Rights. Issues addressed include the right to engage in religious persuasion and limits on proselytism, the right to registration of religious organizations, religious autonomy rights, and obligations of states to protect citizens from religious persecution.

Brett Scharffs  
Comparative Freedom of Religion  
14 class hours

This course will focus on comparative constitutional law perspectives on freedom of religion and church-state relationships. The course will include illustrative cases and materials from approximately fifteen countries and regions, as well as some international human rights materials.

We will discuss the range of possible church-state structures including the theocratic state, established religions, religious status systems, endorsed religions, preferred sets of religions, cooperation, accommodation, separation, laicite, secular control regimes, and abolitionist regimes. We will then study a comparative framework for conceptualizing church-state relationships and discuss an innovative schematic for conceptualizing the relationship between the degree of religious freedom in a society and the degree of identification between religion

and the state. We will also focus on tensions that arise between religious freedom and other important rights and values, including discrimination against racial minorities, women, indigenous peoples, sexual minorities, and the rights of children. The course will also discuss various approaches to the financial relationships between churches and the state, including direct financial aid to churches, indirect aid, and aid to religiously affiliated social service organizations. The course will conclude with a discussion of different views about the place of religion in public life, including the appropriate roles and limitations of religion in politics, religious elements in governmental activities, religious influence on law and public policy, and religious symbols on public property.

Gar Yein Ng

Judicial Independence and Administration

14 class hours

This course will introduce the judicial function from a separation of powers perspective. It will examine elements of judicial independence, impartiality and accountability. A closer look shall be given to the importance of appointments systems, including training, discipline, promotions, and dismissals. The budgetary aspects of the operation of the judiciary will be covered with special attention to the adjustment of judicial pay. The problem of judicial self-governance and administration will be addressed with special emphasis on the apparent tension between independence and accountability. The course will also explore the impact of independent inquiries led by judges on judicial integrity and on the investigation powers of the political branches.

Judit Sándor

Privacy Rights and Data Protection

-contemporary challenges-

14 class hours

This course provides an introduction to different concepts of privacy from comparative legal aspects. The legal scope of the right to privacy is highly contested and was interpreted differently by scholars such as Louis Brandeis, Sisela Bok, Amitai Etzioni or by Richard Posner. According to one of the most widely recognized concepts by Alan Westin privacy can be regarded as the claim of individuals, groups, or institutions to determine for themselves when, how, and to what extent information about them is communicated to others. Now it is often stated that we can no longer guarantee privacy under the present technological and security challenges. True, after 9/11, the issues of security and privacy are reconsidered in a new transnational political context. Numerous legal instruments have been implemented to respond to this challenge both in the United States and within the territory of the European Union – such as the Prüm Treaty with the aim to enhance international cooperation in combating terrorism and cross-border crime. The course shall provide a critical analysis of these challenges. The Data Protection Directive of the European Union is one of the most significant developments in privacy law. However, the widespread application of security-sensitive technologies – such as fingerprinting, systematic collection and processing of the human DNA samples, the introduction of biometric identifiers and intelligent implants – also pose new threats to privacy.

The course also includes the discussion of recent efforts to extend privacy principles in order to respond to the challenges the ever expanding internet and the rapid biotechnological advances pose. Both fields require special consideration with regard to transnational data transfer.

The detailed syllabus is based on the analysis of selected legal texts, cases from American jurisprudence and from European countries.

Marie-Pierre Granger

EU Administrative Law

14 class hours

The law regulating the administration of the European Union has evolved into complex legal regime operating essentially at two levels, the supranational and the national levels. As a majority of national measures directly or indirectly originate in EU law, it is essential to understand how administrative decisions are made in the EU; how they are enforced at both EU and national level, and how they can be challenged. This course provides an overview of the administrative law of the European Union. It covers in particular, the dual nature of the EU administration (i.e. centralized and decentralized), administrative decision-making in the EU (with a particular focus on 'comitology' and agencies); the basic principles regulating administrative law-making (e.g. fundamental rights, equality, legal certainty and legitimate expectations, proportionality, due process, precautionary principle, transparency); judicial means of redress for unlawful administrative acts in the EU (i.e. interim measures, judicial review and damage actions), at both centralized (EU) and decentralized (Member States) levels; non-judicial means of challenging administrative actions (e.g. complaints to Ombudsman or the Commission, SOLVIT, etc.). The course will provide exposure to a wide range of learning methods and legal techniques, such as hypos, case briefs, debates, mini-moots, essay-writing, etc. At the end of the course the students should be able to expose and understand the various administrative decision-making processes of the EU, national and EU level enforcement, and the main judicial and non-judicial means of challenging EU administrative actions.

Note that this course requires previous knowledge of EU law. Attendance of the Jean Monnet Module is thus recommended for all those who wish to take this course.

Károly Bárd  
Right to Liberty  
14 class hours

The course will present an overview of the jurisprudence on article 9 of the International Covenant on Civil and Political Rights and article 5 of the European Human Rights Convention. Following the discussion on the case law defining personal liberty and deprivation thereof the cases of permissible detention shall be presented. The course will extend to the analysis of the rationales and possible justifications of deprivation of liberty as a criminal sanction, further to the exploration of the status of detainees and to the specific rights for persons in custody and pre-trial detention.

The course will also present the international documents, which set the standards for the treatment of prisoners and will extend to the discussion on the status and the operation of international monitoring bodies. Finally, strategies for the prevention of torture and degrading and inhuman treatment should be explored.

Murray Wesson  
Equality and Dignity in South African Constitutional Law  
14 class hours

In 1990, apartheid South Africa initiated a process of democratic reform, culminating in an Interim Constitution in 1993, democratic elections in 1994 and the adoption of a Final Constitution in 1996. The 1996 Constitution has been described as a 'post-liberal' document, given its inclusion of socio-economic rights, a commitment to substantive as opposed to formal equality, and allowance for horizontal application of the Bill of Rights. In light of such provisions, the Constitution has also been described as a 'transformative' document, given that it envisages and mandates far-reaching social change. Yet, perhaps controversially, in so doing, it accords extensive powers to the South African judiciary, at the apex of which is the Constitutional Court.

South Africa is now fifteen years into its democratic transition. As such, this is an opportune moment to step back and critically consider the manner in which the Constitutional Court has given effect to the transformative aspects of the Bill of Rights. Obviously, within the confines of this course, it is not possible to discuss all those aspects of the Bill of Rights that might be regarded as transformative. For this reason, the course focuses on particular provisions of the Bill of Rights. The course also situates the Constitution and the Court's jurisprudence within the history and politics of the country, as well as considering the prospects for constitutionalism in South Africa.

Oliver Lewis  
Mental Disability Law and Advocacy  
28 class hours

This applied course aims to recognize the protection of rights of people with disabilities as a mainstream human rights issue, and to equip students to become effective human rights advocates. Students will critically examine issues relating to the human rights of people with intellectual disabilities and/or mental health problems. The course will cover topics relating to human rights, advocacy, and the development of policies. Issues which will be examined include: inhuman and degrading treatment; liberty and detention; guardianship; the right to life and investigations of deaths; consent to mental health treatment; the role of NGOs; discrimination and stigma; human rights research and monitoring, and advocacy at national and intergovernmental levels; and involvement of users of mental health services in advocacy and policy development. It is hoped that students will visit a State-run institution during the course. The course will be examined through class participation, assignments and a written examination.

It is expected that students will be familiar with the European Convention on Human Rights and case law of the European Court of Human Rights. During the course, students will become familiar with the newest UN human rights treaty, namely the Convention on the Rights of Persons with Disabilities, which opened for signature in 2007.

Michel Troper  
French Constitutional Law- Advanced  
14 class hours

French Constitutional Law is interesting not only because it is in many ways very different from that of other countries (for example, it is neither a parliamentary nor a presidential system, the constitutionality of statutes is reviewed by an institution that is not part of the judiciary, etc) but also because its rich history (the present constitution is the 15th since 1791) makes it a laboratory for constitutional law. We shall use it as a tool for constitutional theory and for the theory of the State. The subjects to be covered include: sources of constitutional

law, the hierarchy of norms, the State, separation of powers, sovereignty and representation, relations between State and religion, judicial review.

Richard Freer  
American Civil Procedure  
14 class hours

This course provides a detailed overview of civil action in US courts. The course discusses the constitutional and statutory framework of civil procedure, the distinctive features of the adversary system and the structure of US civil procedure. The presentation of the overall framework of US civil action is supplemented by a study of multi-party devices, rules of admissibility and exclusion of evidence, basics of conflicts and choice of law, and enforcement of judgments. In addition the course explores the role of foreign parties in US courts.

Csilla Kollonay-Lehoczky  
Gender and Law  
14 class hours

The course is to provide knowledge on the development of the gender equality in the major legal regimes, the U.S. and the EU law and their jurisprudence. It will discuss the concept of gender discrimination, illuminating the concept of sex/gender, and the stereotypes triggering everyday hidden discrimination going with impunity. Focusing on labour market discrimination, the course will identify the forms of discrimination, distinguishing between direct and indirect discrimination (disparate treatment and acts with disparate impact). Equal pay, equal treatment of pregnant women, harassment as a form of discriminatory treatment and permitted exceptions when sex can be a lawful requirement will be discussed. Positive action and recent debates about "accommodating" gender differences will close the course.

Since the course is drawing on concepts and theories of feminist jurisprudence the completion of "Feminist Jurisprudence" (or an equivalent in the curriculum of previous studies) is a precondition for taking the course.

Howard Hunter  
Comparative Law of Sales  
14 class hours

The course compares and contrasts the Convention on the International Sale of Goods, the Uniform Commercial Code, the UNIDROIT Principles of International Commercial Transactions, and the common law in the treatment of sales transactions. The course is problem oriented, and the problems are based upon actual cases or disputes. Students are expected to prepare and present in class an analysis of one or more problems and are also expected to participate in daily discussions of the problems. Twenty percent of the course grade is based on class participation and eighty percent on the final examination.

Clifton Fleming  
International Tax Law  
14 class hours

This course will introduce students to (1) the workings of a tax on income, (2) the difference between an income tax and a consumption tax, such as a VAT, (3) the internationally accepted principles for allocating taxing jurisdiction over income and consumption among nation states, (4) the double taxation problem with respect to international income, (5) methods for alleviating double taxation of international income, (6) the deferral problem, (7) the transfer pricing problem and (8) the effect of bilateral double tax agreements on the preceding topics.

Armand de Mestral  
Regional Trade Agreements  
14 class hours

Class 1: History, Number and Types of RTA's; Policies pursued by states entering into RTA's; Alleged advantages and disadvantages

Class 2: Review of the working of significant Customs Unions and Free Trade Agreements ( The EU as a RTA, MERCOSUR, NAFTA)

Class 3: a) RTA's in Asia; the development of the ASEAN  
b) Significant bilateral FTA's

Class 4: FTA's currently under negotiation by the USA, EU, China, Japan etc and the challenges posed to the Multilateral trade System

Class 5: WTO law applicable to RTA's: GATT Art XXIV, the 1979 Enabling Clause, 1994 Understanding; WTO Committee on RTA's, ongoing WTO negotiations

Class 6: GATT/WTO cases dealing with RTA's

Class 7: The future of RTA's and the Multilateral Trade System

Readings: James H. Mathis Regional Trade Agreements in the GATT/WTO (Asser Press, The Hague, 2002); Jackson, Davie, Sykes, Legal problems of International Economic Relations (4th Edition, 2002) Chapter 11; WTO website and other internet websites to be indicated.

John J. Barceló

WTO/GATT Law

14 class hours

The course will include a study of (i) the basic WTO/GATT rules and principles that control national trade policies; (ii) dispute settlement in the WTO/GATT; and (iii) the WTO/GATT as a trade policy negotiating forum. The course will also treat the basic economic principles underlying the major WTO/GATT rules and will consider the extent to which trade rules should accommodate environmental policies. Topics covered will include the prohibition of quantitative restrictions, the two nondiscrimination principles in the WTO/GATT (most favored nation and national treatment), and derogations from these principles (the exception for regional arrangements and the exception for legitimate regulatory policies).

Tibor Tajti

Capital Markets and Securities Regulation

28 class hours

The aim of this two-credit course is to provide the students with a solid understanding of the fundamental institutions of capital markets and in particular with the tasks imposed on the regulatory bodies in shaping the legal framework of capital markets in modern market economies. Although the basic approach will be comparative, the federal securities regulatory framework of the United States will serve as the model to discuss the fundamental issues of this hybrid and rapidly changing field of law. Besides the American developments the most important features and developments of the capital market and securities regulatory framework of Germany and the European Union will be also covered to the extent possible. In addition to that – to profit from the unique opportunity that our university is located at the heart of Central Eastern Europe and has a diverse students body predominantly coming from this 'transitory' region – and is thus in the unique position to directly follow the development of the fledgling capital markets of the region, whenever possible a special attention will be given to this peculiar part of the world. The curriculum includes also corporate governance, another emerging discipline, without which, no discussion on capital markets would be complete.

Bernard Rorke

Roma Rights

14 class hours

Across the region of Central and Eastern Europe Roma rights remains one of the most pressing areas of concern for those engaged in human rights issues. The Roma, as Europe's largest ethnic minority, have not benefited from the dramatic transition, consolidation and expansion of democracy and democratic values since 1989. There remains a veritable chasm between the bundle of rights with which citizens have been endowed, and the capacity of the Roma to access those rights. The repercussions range from social segregation and exclusion to a widespread tolerance of racially motivated acts of violence against the Roma. The course 'Roma Rights' will examine the difference between the norms which proclaim, recognize, define and assign human rights, and their application as they pertain to Roma minorities.

Four themes will be discussed at some length: (1) the current threats to fundamental rights of individuals belonging to Roma minorities, with a particular emphasis on freedom of movement, hate speech and racially motivated violence; (2) strategies to combat discrimination against Roma: successes and failures, merits and limitations of civic activism and strategic litigation; (3) the impact and consequences for Roma rights of EU enlargement and initiatives such as the Decade of Roma Inclusion 2005-15; (4) an exploration of the wider practical and philosophical tensions between the politics and ethics of identity and the politics of human rights as they pertain to Roma.

For each of these cross-cutting themes, a comparative analysis of the plight of the Roma and democracy's deficits within and beyond the borders of the European Union will be developed. The course will be lead by the Director of Roma Initiatives, Open Society Institute and interested students will have the opportunity of direct contact with a wide network of Roma and pro-Roma rights activists in Central and Eastern Europe.

Martin Hunter

Presentation of Evidence in International Arbitration

14 class hours

This course covers the theory and practice of fact-finding by arbitral tribunals in international arbitrations that take place under arbitration clauses in transnational commercial contracts and investment treaties. Common law

and civil law rules of civil procedure are compared, and the manner in which 'hybrid' procedures are adopted by international tribunals are analysed. Included in the syllabus are international practices commonly used for the production by the parties of documentary evidence, the presentation and testing of fact witness testimony, the use of experts (retained by the tribunal and/or by the parties) and inspection of the subject matter of the dispute. Because emphasis is placed on practice the course includes, in addition to lectures, case studies, interactive seminars and practical exercises.

Required reading: *Redfern & Hunter on International Arbitration*, 5<sup>th</sup> Edition (Student Version, OUP), Chapter 6: the *International Bar Association Rules on the Presentation of Evidence in International Commercial Arbitration*, (2nd Edition, 1999).

Grading will be by 'restricted open book' written exam during the examination period following Module V.

Pasquale Pasquino

Comparative Constitutional Adjudication

14 class hours

The seminar will analyze origin, forms and impact on democratic societies of constitutional adjudication. We will discuss mechanism of referral as basis for a typology of constitutional adjudication. Special attention will be devoted to three cases: Germany, France and Italy. We will study the recent reform of the French constitution (art. 61-1) that introduced ex post review of statutes; and some important decisions: the *Entscheidung* of June 30, 2009, by the Federal Constitutional Court of Germany concerning the ratification of the Lisbon Treatise and the sentences of the Italian Constitutional Court concerning the constitutional value of the jurisprudence of the ECHR in Strasburg.

If we have time we will discuss the question of dissenting opinion and the hearings of justice Sotomayor in the American Senate.

Frieder Dünkel

Prisoners' Rights

14 class hours

TBA

## SIXTH MODULE

### *RESTRICTED ELECTIVE and ELECTIVE COURSE*

W. Cole Durham, Jr.

Freedom of Religion – Advanced

14 class hours

This course will undertake an in-depth comparative analysis of the notion of religious autonomy as this theme has emerged historically, and in the context of decisions of the European Court, the United States Supreme Court, the German Constitutional Court, and others. The course will explore the theoretical grounding for religious autonomy, the comparative range of protections in different legal systems, and its implications in a number of practical areas such as church-property disputes, disputes concerning which branches of a religious community should be registered, the implications of autonomy for the religious employment context, and other relevant topics of interest to participants in the course.

Eszter Polgári + HRSI

Training in Persuasive Argumentation-Moot Court (HR LLM, Elective course for HR MA)

14 class hours

This course organized jointly by the *Human Rights Initiative (HRSI)* and the *Legal Studies Department* provides students with the skills required when lodging an application with the European Court of Human Rights (ECHR). Students become familiar with the practical aspects of the application process and are trained in building persuasive legal arguments to support their case.

Following an introductory session where students learn persuasive argumentation skills and the workings of the European Court of Human Rights from NGO practitioners students are divided into two teams of 3-5, the Applicant and the Respondent. Each team is assigned a trainer. Trainers are practitioners from the NGO sphere as well, who have been involved in representation of individuals before the European Court of Human Rights. The trainers are expected to hold at least 6 hours of training with their respective team, on analyzing a hypothetical situation and preparing arguments. The trainers are encouraged to also cover the rules of demeanour and the performance required in a Moot Court. The course culminates in a simulation of an ECHR trial, where the students can practice the skills gained during the course.

Michel Rosenfeld

## Comparative Equality

14 class hours

The course will examine theoretical and practical issues concerning constitutional equality. Subjects covered will include formal vs. substantive equality, discrimination based on race, religion, sex, sexual orientation, and wealth, affirmative action and individual vs. group equality. The countries covered will include: the United States, France, Germany and others selectively.

Gar Yein Ng

## Fair Trial Rights beyond Criminal Procedure

14 class hours

The course gives an in-depth look at the elements to a fair trial, including access to justice, due process, judicial independence and impartiality and fair trial rights in relation to other rights. Sources will include the International Covenant for the Protection of Civil and Political Rights, and the European Convention on Human Rights. A deeper look will be given at the difference between the role of judge in private law cases, and in public law cases, especially with regard to judicial review. Students will be expected to contribute knowledge from their own legal systems.

Dimitrina Petrova

## Human Rights Politics

14 class hours

The course explores the complex relationship between human rights and political power, viewing "human rights" as a particular agency in the political universe. Employing concepts from political science and the philosophy of power, we will first address the following questions: How do law and politics interrelate in human rights work? Can the interpretation of human rights law be free from politics and political interests? What is the role of human rights in the legitimation of power establishments? In trying to answer these questions critically, we proceed from a new theory of human rights politics, making use of Habermas' and others' concepts of power and legitimation.

A second group of questions will then be addressed, concerning the political geography of the present-day human rights movement. We will focus on the different profiles of human rights defenders around the world and, noting their diversity and some unbridgeable differences among them, will wonder what the future of human rights defenders' solidarity looks like.

The course will develop students' skills to draft strategies for human rights action seeking specific and measurable impact, based on (a) analysis of the stakeholders in human rights issues and the way they participate in the process of negotiating policy on these issues; (b) analysis of the key players in policy making; (c) forecasts on the impact which certain actions are likely to have; (d) planning synergies between human rights as a tool for change and other tools. Students will undertake practical case studies looking at the human rights politics of governments, inter-governmental organizations, NGOs, social movements, and funders.

Michael Hamilton

## Transitional Justice

14 class hours

'Transitional justice' broadly refers to the mechanisms created to expand opportunities for obtaining justice in societies emerging from conflict or authoritarian rule. Such transitions are often plagued by the difficulties and costs of coming to terms with the deeds of unjust political regimes. Transitional mechanisms thus include international and domestic tribunals, truth commissions, public inquiries, lustration and institutional reforms, and reparative measures. This course aims to overview and illustrate a number of core issues relating to the needs of victims, and the imperative of preventing the reoccurrence of mass human rights violations. We will also question whether (and if so, how) human rights jurisprudence reflects pressing transitional concerns, and examine a number of tensions which often surface as apparently intractable policy dilemmas during periods of transition. As such, the course is aimed to provide students with a critical comparative analysis of highly divisive moral and legal issues concerning guilt and responsibility, memory and truths.

Csilla Kollonay-Lehoczky

## Equal Opportunity Law

14 class hours

The course on equal opportunity in employment confronts traditional and more recent views on the concept of "equality" and "equal opportunity". It describes basic terms of equal protection by the law (with particular respect to the possible grounds of discrimination) in an international perspective. The majority of the analyzed laws and jurisprudence will be based on US law (the Fourteenth Amendment, Title VII of the Human Rights Act and the relevant USSC case law), comparing it to the developing EU equality law and to other national laws and international (primarily UN) instruments on particular issues. Course discussion will cover individual and social

aspects of the right of all persons to equal chances for entering, performing and progressing in a freely chosen occupation. Through legal norms and prominent legal cases the course is intended to provide students with familiarity of the changing concepts of discrimination and equal opportunity, its forms and content (paying attention to the hierarchy of grounds of discrimination, to the differences between direct and indirect discrimination). Race (the most ancient and most grave ground) and disability (a relative recently protected attribute) will be discussed in details, with special regard to issues of social integration, assimilation and the asymmetric concept of discrimination. The full discovery of the concept will proceed through discussing its boundaries regarding privacy, lawful exceptions and last, but not least, positive action.

Patrick Macklem  
Comparative Federalism  
14 class hours

This course will examine federalism from a comparative perspective. It will explore the extent to which federalism, as a system of distributing legislative authority within a sovereign state, can address ethnic and cultural differences among citizens, promote the efficient allocation of goods and services by government, accommodate national and international pressures for trade liberalization and enhanced economic integration, and promote respect for fundamental human rights. It will focus on constitutional rules and principles governing federal systems in North America, Australasia and Europe, and, if time permits, will apply lessons from these jurisdictions to the emerging federal order in the European Union.

András Sajó / Renáta Uitz  
17<sup>th</sup> Annual Conference – Individual vs. State  
14 class hours

Counts as S.J.D. workshop

The conference offers the opportunity to participate at an international conference on the relation of individual rights and grounds of restriction. Participants are expected to provide a research paper on the basis of the conference, applying the theoretical perspectives of the conference.

Stephen Golub  
Strengthening Legal Systems and Services in Transitional and Developing Societies  
14 class hours

The international community spends hundred of millions of dollars per year to strengthen legal systems and legal services in developing and transitional societies across the globe. As evinced by recent World Bank and United Nations initiatives, an increasingly prominent subset of such work features legal empowerment, which focuses on ways of using legal services to alleviate poverty and otherwise increase the power of disadvantaged populations.

This course considers a number of questions relevant to these efforts. The questions include:

- What assumptions underlie such assistance?
- Which efforts and strategies are having any impact?
- How do we know whether they are making any progress?
- What roles do lawyers, non-lawyers, politics and culture play?
- How do and should legal empowerment efforts relate to programs in other development fields (e.g., gender, natural resources, public health)?

The course explores such questions by scrutinizing various efforts to strengthen legal systems and services in a number of countries. A core focus is on international funding agencies and strategies that aim to advance poverty alleviation, access to justice, the rule of law and related priorities. But this inevitably includes consideration of the government institutions, nongovernmental organizations (NGOs) and citizen groups that receive international aid or that otherwise play key roles in whether and how development occurs. The focus accordingly includes legal services NGOs that assist and build the capacities of women, minorities and other disadvantaged populations. It also embraces initiatives ranging from judicial strengthening projects to work with traditional justice systems. The course is less concerned with law reform *per se* than it is with how law-oriented strategies can help improve the lives of the disadvantaged and otherwise advance development.

The aims of the course are:

- to promote students' understanding of and thinking about the field of law and development,
- to introduce students to potential career paths and the skills involved, and
- for all participants (including the instructor), to learn from each other's perspectives and experience.

The discussions will draw on academic and professional literature; guest speakers from and/or visits to Budapest-based organizations (such as the Public Interest Law Institute and the Open Society Justice Initiative); the backgrounds of any class members with relevant experience; and the instructor's own experience and writings. In view of the fact that many students will come from Eastern and Central Europe and the former Soviet Union, there will be a particular though not exclusive focus on those regions.

Assessment of students will be based on the following criteria:

- final examination: 75 percent
- in-class participation: 25 percent

Richard Buxbaum

Human Rights in Corporations

14 class hours

This course will introduce the subject of Corporate Accountability, in comparative perspective (especially under EU and Member States and US legal regimes). It will review the basic problem of the modern economy whose effective use of scarce resources is thought to require large aggregations of capital organized in private corporate form. These large economic actors unavoidably wield a degree of power and have societal, ecological and cultural impacts that in turn become a legitimate source of concern for governmental and other societal actors. The coverage begins with the "other stakeholder" problem, primarily involving the workforce, the financial and commercial providers of debt financing, and the community within which the facilities are situated. Consumer protection, antitrust concerns, and environmental protection (the latter especially in its trans-national context) are also covered. The intervention of actors concerned with these issues in the internal decision-making structure and processes of corporations will be a major focus of the course.

Patrick Macklem

Human Rights and Global Justice

14 class hours

This course explores the relation between international human rights law and the conditions of a just international legal order – one that maintains a just distribution of sovereignty, promotes the just exercise of sovereign authority, and possesses the institutional capacity to check some of the adverse distributional consequences of globalization. It does so by exploring international human rights topics that are often thought of as peripheral to the field, namely, social and economic rights, international labour standards, the right to development, cultural rights, indigenous rights, and the right of self-determination. It will explore the nature and scope of these rights in their relevant institutional settings, including U.N. treaty institutions, the International Labour Organization, the World Bank, the World Trade Organization and the International Monetary Fund. Broader themes of the course include the debate between universalism and cultural relativism, the interpenetration of international human rights law and other international and domestic legal fields, and classical and pragmatic conceptions of state sovereignty.

Anita Ramasastry

Accounting for International Business Lawyers

14 class hours

This course is an introduction to financial accounting as it is practiced and used throughout the world. It examines the process of collecting, recording and verifying data on the financial aspects of business transactions. The main focus of the course is on understanding, evaluating and analyzing the principle financial statements, including the Statement of Financial Position ("Balance Sheet"), the Statement of Income, and the Statement of Cash Flows. The course also studies the role of accounting in business and legal transactions, including securities offerings, mergers and acquisitions, taxation and litigation.

Peter Hay

European Choice of Law

14 class hours

What law does a court apply in a case that involves border crossing facts (a tort committed abroad, a contract made in one but to be performed in another country, the administration of an estate with assets in different countries, the validity of marriages contracted in a system with different forms of marriage, and the like). Many countries have adopted rules for choosing the applicable law by statute (e.g., Europe), others have not but have developed "approaches" (e.g., the United States). The course examines choice of law in the above areas (and others) from both of these perspectives. Major attention is given to the European Union's "Rome II" Regulation on choice of law in tort, which replaces national rules on the subject. The Rome Convention (on contracts), soon to be the "Rome I Regulation" receives similar detailed treatment.

Hugo Frühling and Pramod Kumar

## Criminal Justice Workshop - Comparative Perspectives on Crime and Justice

14 class hours

Over the past 30 years a growing number of countries have conducted crime or victimization surveys to assess national or local crime trends. Likewise, empirical research has been done to evaluate the effectiveness of criminal justice systems to deal with violence, to determine the effectiveness of particular policing strategies to ensure public order, and to determine the cost-effectiveness of criminal justice reform measures. The aim of this course is to describe the uses and tools for research on crime, criminal justice and policing, and the contribution they could make to a more effective and democratic criminal justice policy. To do so, Professors Kumar and Frühling will draw on their experience in Latin America, Asia and other parts of the world, examine problem areas that require public policy decisions and the challenges they present to research. The first section of the course will offer a comparative view of crime statistics, surveys and other research tools to assess the level of crime, fear of crime and the contribution of criminal justice systems to the control of crime. Based on information gathered and debated, the second section of the course will examine with the students the process of criminal justice reform that has been taking place in emerging democracies around the world. This process will be examined with attention to the evaluation of its impact, and research on its implementation. The third and fourth sessions will focus on research on policing: aims of the research on policing, issues and experiences of research on policing, and the impact of research on policing on actual policymaking. Finally, the students will be presented with a problem they will have to solve using the material provided during the course. Evaluation will take into consideration class participation, the solving of the problem just mentioned, and a final exam.

Frederick Abbott

### International Technology Transfer

14 class hours

Advances in technology are driving today's global economy. The private and public sectors invest in the development of new technologies to provide competitive advantage to business and to address social needs. Transfers of technology, whether by licensing or through direct investment, are essential to improving economic efficiencies and improving public welfare. Such transfers allow businesses and public sector institutions at different levels of the research, development and commercialization chain, and in different geographic locations, to take best advantage of developments.

This course focuses on the legal systems regulating transfers of technology. Components of the course include: (1) an overview of the global framework of intellectual property regulation, including the WTO, WIPO, regional, bilateral and national systems; (2) technology licensing and competition law, including regulation and case law in the US and EU; (3) recent case law addressing intellectual property and technology transfer concerns; (4) technology transfer in the pharmaceutical sector, including the drafting of licensing agreements, and (5) biotechnology, genetic resources and technology transfer.

The course addresses a wide range of technology subject matter, from computer software to pharmaceuticals to genetic resources.

Deborah A. de Mott

### Art Law

14 class hours

This course covers a number of intersections between the law and the people and institutions that constitute the world of the visual arts, including artists, museums, collectors, dealers, and auctioneers. The course also covers selected non-legal material geared to shaping practices of art market participants, such as codes of conduct applicable to museums. Specific topics include: (1) contexts in which legal institutions must determine whether an object is a work of "art" or art of a particular type; (2) artists' rights, including moral rights and rights to receive royalties upon resale of their work; (3) problems of authenticity; (4) the legal rights and duties of auctioneers and art dealers; (5) the legal structure of art museums, including issues of internal governance and collection management; (6) stolen art; and (7) developments related to "cultural heritage," the association between objects and particular places or societies.

This course presupposes no prior study of art history or of intellectual-property law.

Károly Bárd

### Fair Trial Rights in Proceedings before International Criminal Tribunals

14 class hours

The course will focus on international due process standards as guaranteed in trials of defendants accused of the most serious crimes before international tribunals. In the center of discussion will be the key articles of the Rome Statute adopted by the United Nations Diplomatic Conference on the establishment of a permanent international criminal court and the relevant provisions of the Court's Rules of Procedure and Evidence. Following a brief description of the historical background of the creation of the International Criminal Court (ICC) and the analysis of the operation of the Nuremberg Military Tribunal and the ad-hoc international tribunals, the

procedure to be followed by the ICC will be discussed in details in the light of international fair trial standards. In connection with the relationship between the ICC and the national courts traditional concepts of criminal law and institutions of international cooperation in criminal matters will be confronted with the provisions of the Rome Statute whereas the analysis will focus on the fair trial guarantees in international cooperation. The course will extend to the demonstration of the impact of different legal systems and of their human rights concepts on the ICC Statute as reflected in the provisions on procedure, on penalties and on the enforcement of judgments.

Peter Hay

International Civil Litigation

14 class hours

The two central problems in international litigation (as distinguished from arbitration) concern a court's judicial jurisdiction over a foreign defendant and, once a judgment has been obtained, the recognition and enforcement of such a judgment in another country where the judgment debtor has assets. The course deals in detail with these two problems, including the effect of differences among countries for the exercise of jurisdiction and extent to which a foreign judgment is open for review or subject to defenses. In addition, there will be some coverage of international divorce, custody, and maintenance litigation, as well as of associated problems such as service of documents, discovery of evidence, and proving foreign law. The European Unions "Brussels I, II, and III Regulations" receive major emphasis.

Peter Hay

EU Law II

14 class hours

This course deals with the external relations of the European Union and its commercial policy. It considers types of association agreements concluded by the European Union (for instance, the Convention with the ACP -- Atlantic, Caribbean, and Pacific -- states, the closer association agreements with Mediterranean countries and with Turkey) and their differing approaches, the "Europe Agreements" with Eastern European countries, and the special problems of accession to membership faced by applicant states (as well as by the EU). Special emphasis will be given to the free movement of goods and persons, the right of establishment of companies, and the kind of transitional safeguards that new members retain, including the maintenance of temporary barriers to import the ability to restrict ownership of real property, and the maintenance of state subsidies.

Marie-Pierre Granger

Liability of Public Authorities in Comparative Perspective

14 class hours

The King can no longer do no wrong! Whilst suing the State in damages used to be an almost hopeless perspective, except for harmful administrative wrongs, recent legal developments across Europe converge in making it easier for natural and legal persons to claim compensation for harmful acts or omissions committed by the State, its agents and its various emanations. Not only is it now increasingly possible to sue the State in damages when it acts as an administrator, but also as a legislator and even a judge. This course provides an overview of the various public liability regimes and their recent evolution in France, Germany and the United-Kingdom, as well as the impact of the law and practices of the European Union and European Convention on Human Rights on the Europeanisation of public liability in Europe. The course will provide exposure to a wide range of learning methods and legal techniques, such as hypos, case briefs, debates, mini-moots, essay-writing, etc. At the end of the course the students should be able to expose the basis of the major public liability regimes available in Europe, and assess the efficiency of these regimes in the light of the objectives they pursue.

Renáta Uitz/Eszter Polgári

Identity, Gender and Human Rights

14 class hours

The working title of the course was 'Sexing Human Rights' which probably would have reflected more directly, though more provocatively, our subject: the problems of sexuality as reflected in contemporary human rights and constitutional discourse. Following a brief introduction to theories making sense of sexuality for the purposes of human rights discourse (including but not limited to natural law approaches, liberal theories and queer theory), the course will tackle controversial and sensitive subjects related to heterosexual, lesbian, gay, queer, transgender and transsexual ways of living. We track the expression, display or tracing of gender identity across many contexts, taking into account legal, sociological, medical and psychological considerations. The course provides a perfect opportunity to explore the boundaries of contemporary human rights discourse, theory and practice. Due to the sensitivity and complexity of the subjects to be covered, all participants are requested to be particularly respectful of views and opinions expressed during the course.

Participants will be required to submit short essays, and will also be invited to participate in mediated advocacy projects and group exercises. Assessment will be based on in class participations, various in-class assignments (oral and written) and a short final research essay on a topic of their choice.

Susanna Mancini

Europe: Transnational Constitutional Identity

14 class hours

TBA