

**Global Law Program
Fundação Getulio Vargas
FGV DIREITO SP**

Syllabus

**Regular courses - 2 months courses
Spring Semester 2023**

Global Law Program - Fundação Getulio Vargas

Course: Introduction to Brazilian Legal System

Workload: 30 hours

Credits: 2

Overview:

The main object of this course is to introduce foreign students to the Brazilian Legal system. After a brief overview of the main features of the 1988 Constitution, the course will focus in our system of constitutional review, especially on the role of the Supreme Court. The course will certainly have a comparative perspective, to help students understand the peculiarities of the Brazilian system vis-à-vis their own constitutional systems. The subpart of the *Introduction to Brazilian Legal System* discipline provides an overview of the basic concepts underlying Brazilian tax law. Subjects covered in this introductory course include the assignment of federal and subnational taxes, the main principles and rules of individual and corporate taxation and the tax law treatment of inbound and outbound transactions and investments. Special emphasis is placed on selected issues of Brazilian taxation with an international impact.

The course aims to develop on student's knowledge on the various sources and core concepts of Brazilian tax law, as well as critical analytical skills on the structure of the Brazilian tax system and its policy implications, with a special emphasis on inbound and outbound transactions and investments.

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Global Law Program - Fundação Getulio Vargas

Course: Contracts in Civil and Common Law

Workload: 30 hours

Credits: 2

Overview:

The course proposes a contextualized approach to contracts, considering what is currently known as two antagonist systems: the Civil Law and the Common Law. Although different in many aspects, it is possible to say that there are more similarities than differences in contract law in US and UK when compared to contract law in Continental Europe and Latin America. Beyond the idea of a mere legal transaction or an expression of individual freedom, contracts are recently seen as artifacts in the service of the circulation of wealth. Therefore, its content must be carefully designed and executed considering the economic agents' objectives, surrounding circumstances and the current legal and institutional environment. In sum, contracts merely are documents to anticipate or adjourn conflicts. This perception and consequent needs are present in both systems and the idea of this course is to explore contract law and contract best practices to provide students a cutting-edge comprehension of the global contractual phenomenon, leading them to efficient contract drafting techniques, to offer tools with immediate practical application to read, write, manage and enforce contracts in a more effective, efficient and simple way.

Students will face recurring themes of contemporary Contract Law, such as penalty clauses, performance clauses (SLA, KPI etc.), limitation of liability, hardship, duty to renegotiate, anticipation of maturity (covenants etc.), dispute resolution and subjects related to insolvency.

Day 1 – What is Contract in Civil Law? Is it different in Common Law?

Day 2 – Contract Performance

Day 3 – Contract Penalties and Liquidated Damages

Day 4 – Risk Allocation and Risk Management

Day 5 – Hardship, Force Majeure, Frustration, and other similar remedies

Day 6 – Contract Termination

Day 7 – Dispute Resolution Clauses

Day 8 – Evaluation Workshop

References:

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Paper No. 2306209; Stanford Law and Economics Olin Working Paper No. 450. Available at SSRN:
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Global Law Program - Fundação Getulio Vargas

Course: International Commercial Arbitration

Workload: 30 hours

Credits: 2

Overview:

This course aims to provide students with an introduction to the fundamental theories and key elements of international commercial arbitration. The course is a combination of legal theory, an analysis of the practical aspects of the arbitral process and case exercises

After the successful conclusion of the course, the student is expected to be able to:

- demonstrate knowledge and understanding of International Commercial Arbitration, especially regarding the applicable legal framework, the parties' autonomy and other arbitration's general principles, the arbitrability of disputes, the requirements and effects of an arbitration agreement, the arbitral tribunal's constitution and jurisdiction, the applicable choice of law, the arbitral proceedings, the award and its enforcement;
- draft (or review) an arbitration agreement;
- identify, formulate, evaluate and critically analyze arbitration issues (including procedural issues) and create adequate solutions to advanced dispute solving;
- demonstrate methodological knowledge on International Commercial Arbitration Law required for research purposes and development work.

Students will learn the main principles of arbitration; its advantages and disadvantages; what kind of disputes can be solved by arbitration; how to draft arbitration agreements; how to commence an arbitration; about the arbitrator appointment process and challenges; and the key features of international commercial arbitration proceedings. Students will furthermore learn about the structure and essential content of arbitral awards and how they may be challenged and enforced under the 1958 New York Convention. Finally, the course will address the particularities of emergency and expedited arbitrations.

Classes will take place every Monday, from 9am to 12:40pm.

Class 1 (06.02.2023) – Introduction to International Commercial Arbitration: what arbitration is; general principles of arbitration; differences between arbitration, State court litigation, domestic/international arbitration and other ADR methods; the advantages and disadvantages of arbitration; the arbitrability of

disputes; and arbitration recent developments.

Class 2 (13.02.2023) – Arbitration Agreement: required elements and form; separability presumption; kompetenz-kompetenz; effects on third parties; and drafting techniques.

Class 3 (27.02.2023)– Arbitral proceedings (1st class): the differences between institutional and ad hoc arbitration; commencement of arbitration; constitution of the arbitral tribunal; challenge of arbitrators; applicable procedural rules.

Class 4 (06.03.2023) – Arbitral proceedings (2nd class): exchange of submissions; taking of evidence; hearings.

Class 5 (13.03.2023)- Emergency and expedited arbitration proceedings

Class 6 (20.03.2023)– Arbitral Award: drafting and necessary elements; potential scrutiny process; corrections, amendments and additional awards.

Day 7 (03.04.2023) - Annulment and enforcement proceedings; New York Convention. UNCITRAL Model Law and examples of domestic legislation and case law.

Day 8 (10.04.2023) - Other measures of court assistance. Interim Measures before national courts, including interplay with emergency arbitrator proceedings.

Supporting material posted at e-class (laws, treaties, arbitration rules and guidelines/notes) will be used in classes.

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Global Law Program - Fundação Getulio Vargas

Course: MICROFINANCE DIFFUSION AND REGULATION IN BRAZIL

Workload: 30 hours

Credits: 2

Overview:

Microfinance has always been associated as an efficient tool in the fight against poverty and inequalities, from the perspective of financial emancipation and the promotion of human dignity. This course is designed to examine the different actors, contexts and narratives of the microfinance movement and the governmental policies and private arrangements, including services and efforts provided there. It will focus around the following related issues:

- a. Challenges facing microfinance programs vis a vis financial inclusion,
- b. International guidelines on the role of financial sector regulators and on performance and expectation of microfinance institutions and customers.
- c. Objectives and key principles of microfinance regulation and supervision.
- d. Brazilian initiatives and the development of its microfinance regulatory environment.

References:

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- ✓ Yunus, Muhammad. "The future of Microfinance". In Brown Journal of World Affairs. Spring/Summer2020, Vol. 26 Issue 2, p1-8. 8p.

Global Law Program - Fundação Getulio Vargas

Course: Social Representation of Law in Brazil

Workload: 30 hours

Credits: 2

Overview:

The course intends to present and discuss accepted representations of Brazilian society. In its history, different images have led to the emergence of competing, sometimes antagonistic views, on the role of Law and the judicial system. By debating myths and perceptions through concrete situations, this course offers an introduction to the economic and social problems that challenge the Brazilian interpreter and that influence how its legal system works.

References:

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**Global Law Program
Fundação Getulio Vargas
FGV DIREITO SP**

Syllabus

**Visiting Professor – Short Term Courses
Spring Semester 2023**

Global Law Program - **Visiting Professor**
Prof. Dalia Palombo – tilburg University

Course: From Corporate Social Responsibility to Business and Human Rights

Workload: 15 hours

Credits: 1

Overview:

This course is aimed at law and business students who are interested in learning how the legal framework regulating corporate activities worldwide is changing in light of emerging human rights and environmental corporate responsibility. The course will include the following five modules, corresponding to five days of teaching.

Module I. Corporate Foundations: The Role of Stakeholders

This module will analyse the corporate form and consider the role of shareholders, the board, and stakeholders in corporate governance. The module will compare the different governance models in various jurisdictions and, in particular, the traditional dichotomy between shareholders versus board primacy (the focus will be on the UK and the US approach, but jurisdictions such as Germany and Japan will also be taken to account). Furthermore, the module will consider the emergence of new models based on stakeholders capitalism.

Module II. The Problem of Multinational Enterprises

This module will analyse the accountability gap of multinational enterprises. Multinationals conduct their activities worldwide through subsidiaries and subcontractors operating in multiple jurisdictions. As a result, a number of accountability problems emerge when they abuse human rights or the environment. These include issues in private international law (which court shall consider claims against multinational enterprises and what law is applicable to such companies) and company law (may a parent or holding company be accountable for the transnational torts committed by its subsidiaries or supply chains?). The module will analyse these pivotal questions.

Module III. Foundations of Corporate Social Responsibility and Business and Human Rights

This module will critically analyse corporate social responsibility as a response to the accountability gap. It will focus on both the achievements and failures of the corporate social responsibility approach. It will analyse the evolution from corporate social responsibility to business and human rights, with particular emphasis on the OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights.

Module IV. The Changing Framework for Corporations: Business and Human Rights and International Law

This module will analyse the international legal framework applicable to multinational enterprises with a focus on the proposed UN legally binding instrument on transnational corporations and other business enterprises with respect to human rights, and investment law and arbitration. The purpose of the module is to investigate the status of multinational enterprises in public international law, as well as the obligations and rights that corporations have under public international law.

Module V. Mandatory Human Rights and Environmental Due Diligence

This module will critically analyse the emergence of mandatory human rights and environmental due diligence laws as a possible solution to the accountability gap of multinational enterprises. It Application Short Course FGV Direito SP Dr. Dalia Palombo will compare the laws adopted in France, the Netherlands, Germany and will consider the implications of the adoption of an EU Directive on Corporate Sustainability Due Diligence (currently a proposal at the EU Commission and Parliament).

Course Objectives

- Provide students with a robust knowledge of the legal framework regulating the activities of multinational enterprises in a globalised world
- Students will learn how to navigate a complex legal landscape intertwining private and public, national, and international law
- By the end of the course, students will think critically about the role of multinational enterprises and the law in regulating globalization
- Students will learn about the latest development in sustainability and human rights regulations applicable to multinational enterprises

Methodology

The course will combine various learning methods. It will focus both on theory and practice. Students will be required to do the readings prior to coming to class and to actively participate in the class discussion. Students will be asked to both read academic articles and work in small groups on practical cases, and role plays. The course will also engage in the comparative analysis of various legal systems.

Evaluation Criteria and System

Students shall write a short paper (maximum 1000 words) on a topic of their choice related to one of the five modules. The evaluation criteria include: the choice of a relevant topic, the development of an independent, clear, coherent, and convincing argument, the appropriate use of references and the knowledge of the relevant topic. Students are encouraged to be creative when picking a topic and developing their own argument.

Global Law Program - **Visiting Professor**
Prof. Esteban Restrepo – Universidad de los Andes

Course: Political Economies of Sex and Gender

Workload: 15 hours

Credits: 1

Overview:

This course explores the intersection between the modern operations of global capitalism under its neoliberal guise (particularly in the Global South) and some progressive struggles for sex and gender equality. The course will first delve into current characterizations of neoliberalism as a political, social, economic and cultural regime that, in addition to proposing an expansion of market logics and the reduction of the size of the state, is also a biopolitical regime that regulates and disciplines the lives and the bodies of the most underprivileged populations through categories such as precarity, vulnerability, and resilience. Sex and gender are privileged sites for the global operation of modern neoliberal capitalist dynamics. In a second part, the course will therefore explore how seemingly progressive reforms to eradicate inequalities based on sex and gender may, in the end, be reinforcing the oppressive neoliberal dynamics of socio-economic destitution and the very structural gender and sex inequalities they sought to debunk in the first place. In its final section, the course explores three test-cases that illustrate the neoliberal political economies that currently sustain efforts to eradicate sex and gender inequalities: the regulation of prostitution/sex work, microcredit policies for women, and the regulation of sexual harassment and violence in universities.

The course will gather as a seminar. For each session, a group of students will have to write a short reaction paper on the assigned reading materials that will be circulated in advance to the whole group. In their reaction papers, the students will critically approach the readings and will propose a set of questions to be discussed by the group during the session. The instructor will moderate the discussion and, by the end of each session, will make a conceptual summary of the discussed topics.

Reading materials for the course will include works by Catharine MacKinnon, Amia Srinivasan, Libby Adler, Janet Halley, Lauren Berlant, Elizabeth Povinelli, Verónica Gago, Rocío Zambrana, Silvia Rivera Cusicanqui, Yarimar Bonilla, Isabel Cristina Jaramillo, Helena Alviar, Elizabeth Bernstein, Prabha Kotiswaran, Silvia Federici, and Angela Davis

Global Law Program - **Visiting Professor**
Prof. Roberto Gargarella – Universidad Torcuato di Tella

Course: NEW TRENDS IN GLOBAL AND COMPARATIVE LAW

Workload: 15 hours

Credits: 1

Overview:

PURPOSE: The purpose of the course will be to introduce students to the knowledge of central themes, authors and texts in global and comparative law. The objective is that the students will conclude the course with a broad overview of the main discussions in the area, so they can choose some topics of their interests, for future research.

CONTENTS

1) Introduction: Constitutionalism and democracy

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TEACHING METHODS

The course is conceived as an interactive seminar in which students are required to participate in the discussion of practical cases and related readings.

The students are required to attend at least 80% of the sessions. Some flexibility may be considered in exceptional cases.

EVALUATION

The final assessment of the students will be determined as follows:

- 1) Participation in the class discussion: 20%
- 2) Presentation of an assigned topic: 30%
- 3) Final essay (individual work): 50%

With regard to the oral presentation, students will be in charge of leading the discussion of at least one of the topics of the course. In their presentation, students have to demonstrate that they have carefully considered and understood the issues under examination.

The final essay consists of a short text which addresses one of the issues considered in the course (a topic, related to certain authors and texts), which is different from the one they have presented in class.