

Global Law Program

Fundação Getúlio Vargas

DIREITO GV

Syllabus

Regular courses - 2 months courses
Spring Semester 2013

Global Law Program - Fundação Getulio Vargas

Course: Introduction to Brazilian Legal System

Professor: Flavio Rubinstein

Workload: 30 hours

Credits: 2

Overview:

The main object of this course is to introduce foreign students to the Brazilian Constitutional 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. Through a small number of the Supreme Court decisions, students will have the opportunity to understand issues about fundamental rights, separation of powers and federalism. 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 students 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.

Global Law Program - Fundação Getúlio Vargas

Course: Trends and challenges of criminal law today

Professor: Marta Rodriguez de Assis Machado

Workload: 30 hours

Credits: 2

Overview:

There's a general diagnosis – at least in western societies – that criminal law regulations have been expanded, covering new areas and affecting more and more people. This course will explore the origins and consequences of this phenomenon. It will first address the different – concurrent and complimentary - theoretical explanations available to understand it sociologically (risk society paradigm, increase of individual responsibility, decline of the welfare state and security state's ascension etc.). Secondly, it will address the main consequences of this phenomenon, focusing, on the one hand, on the structural challenges of criminal institutions to cope with complex innovative facts and, on the other hand, the social consequences of the massive use of punishment and imprisonment. Brazilian cases and data will be used to enlighten the discussions, as well as focused comparisons.

Global Law Program - Fundação Getúlio Vargas

Course: Regulation in Brazil: Infrastructure

Professor: Caio Mario da Silva Pereira Neto

Workload: 30 hours

Credits: 2

Overview:

This course will present an overview of the regulatory reform implemented in Brazil in the last 15 years. We will discuss the changes in the role of the State in infrastructure sectors, focusing on the transition from a development model based on state owned enterprises (SOEs) to a model in which the private entities play an important role in implementing and managing infrastructure projects. The course will address different institutional choices in regulatory reform and will present an overview of some of the main changes implemented in Brazil. Also, the classes will discuss the interaction of regulation and competition policy in infrastructures sectors, considering the increasing relevance of antitrust issues in many sectors submitted to regulatory reform. Examples will be drawn from different infrastructure sectors, including telecommunications, oil & gas and railways.

Global Law Program - Fundação Getúlio Vargas

Course: Capital and Financial Markets in Brazil

Professor: Francisco Satiro

Workload: 30 hours

Credits: 2

Overview:

The course will provide a through view of some Brazilian capital market aspects, with specific emphasis on secondary markets. After the 2008 global financial crises, the many problems involving derivatives revealed that structured transactions are far from ideal and regulation of risk management and investments should be reconsidered. The course will cover the regulatory structure of the market for derivatives and analyze the present setting for private equity and takeovers in Brazil. The main players and structures, checks and balances and the applied principles will be studied from a Brazilian perspective.

There will be mandatory readings for every class. Socratic and case study methods will be used. Students will be encouraged to comment in class and will be required to make decisions based on the class discussions

Global Law Program Fundação Getulio Vargas DIREITO GV

Syllabus

Visiting Professor – Short Term Courses Spring Semester 2013

Global Law Program – Visiting Professor 2013

Course: Law and Development in Emerging Economies: Comparing India, China, and Brazil

Professor: Jonathan Burton-Macleod

Workload: 15 hours

Credits: 1

Overview:

This course attempts—however presumptuously—to compare and contrast the economic development models of India, China, and Brazil. The study of emerging economies, particularly in relation to one another, is and should be a nuanced one. Most broadly, these three countries share a development model that appropriates and departs from neoliberal prescriptions. In other words, each context exemplifies a qualified embrace of capitalism, one that is intimately connected to existing—and unique—social and political characteristics. The result is that the development model (and political systems) for India, China, and Brazil are incredibly different, even as they are grouped as various iterations under the umbrella of State Capitalism. The course starts with an overview of a history of law and development, but quickly moves to an evaluation of contemporary growth models as decreasingly influenced by international economic forces and institutions, and increasingly influenced by elements of domestic political economy.

To study the avatars of Indian, Chinese, and Brazilian economic development is an exercise in the identification and separation of myth, group-think economics, and nationalist rhetoric. The drivers of growth in the case of India and China lie in the undergrowth of political systems and social realignments. This course is based on a course that I taught in 2012 at Jindal Global Law School, New Delhi. I include the original course description below, because I think the goals for that course translate into the current one. However, two important caveats must be made. First, in the study of emerging economies, the ground is always shifting. Over the past year, Brazil, along with India and China have all experienced worrying downturns in growth. The course will be geared towards analyzing joint, as well as distinctive, reasons for this shared, sharp downturn. Secondly, it is hoped that analyses of Indian and Chinese development models will be brought to bear on the Brazilian economic development experience. Continuing the theme outlined above, Brazil is yet again unique amongst emerging economic models in its reliance on indirect, widespread government ownership through the Brazilian National Development Bank and its investment subsidiaries, as well as its unique attributes in government spending on social programs. Can Brazil's development model and current economic policy be productively compared to that of India and China? How is Brazil posturing itself within the politics of realigning schemes of global governance, and is there any efficacy to the B(R)ICS working as a block to achieve some measure of shared goals?

A significant portion of India's identity, policy, and angst is defined in relation to China. India lags behind China in economic growth and in attracting foreign investment, making Indian economic policy makers uneasy, and sometimes reactionary. With the memory of the 1962 Sino-Indian conflict still painful, India's geopolitics has been built in the shadow of Chinese power. George W. Bush's identification of India as a 'buffer' against China serves only to confirm India's identity in relation to its Chinese 'other'. It is China's ruthlessly efficient autocracy against India's well-meaning, but bumbling democracy.

At least that is how the narrative goes. In reality, the relationship between India and China as Asia's 'rising tigers' is much more complex and nuanced than overbearing stereotypes suggest. It is not to be denied that



Chinese policy is given considerable notice in India. I recently ran a search that showed ‘China’ to be one of the most frequent words in Indian print media in articles about foreign investment. As another example, many commentators feel that India’s engagement with the trading bloc ASEAN is as much about strategy—making inroads into China’s backyard—as it is about economics. There are even indications that India is emerging economically from China’s shadow, hosting the fastest growing rates of foreign investment in four of the last five years (update: that have since precipitously declined).

Admittedly, China and India have very different legal, political and economic systems. However, they undeniably still share many of the same concerns because they are at similar stages of economic development. This means that they face similar levels of corruption, similar pressure from the international community, and exist at the edge of social crisis—a crisis that centers around issues of social and political inclusion. It is essential that China and India (and Brazil!) start to be studied together—not in competition with each other.



Global Law Program – Visiting Professor 2013

Course: Global Anti-Laundering/Countering the Financing of Terrorism System

Professor: Eduard Ivanov

Workload: 15 hours

Credits: 1

Overview:

Theme 1. Money laundering: definition, goals, main models.

1. Criminal market.
2. Transnational crime and money laundering.
3. Definition of money laundering.
4. Goals of money laundering.
5. Main models of money laundering.

Theme 2. Money laundering typologies.

1. Definition and main elements of typologies.
2. Three groups of typologies.
3. Research of typologies in FATF and FSRB's.
4. Risk-based approach. Main groups of high-risk level.
5. Misuse of cash-transactions.
6. Money laundering in insurance sector.
7. Misuse of real estate market.
8. VAT-fraud and money laundering.
9. Laundering of proceeds gained from illegal drug trafficking.
10. Regional specific of typologies.

Theme 3. Financing of terrorism.

1. Definition of terrorism.
2. Distinctive features of modern terrorism.
3. General overview of the financing of terrorism.
4. Typologies of the financing of terrorism.
5. Misuse of non-profit organizations.
6. Alternative remittance systems.
7. Cash-couriers.
8. Regional specific.

Theme 4. International AML/CFT system. Main international conventions and acts.

1. The Role of UN Convention 1988 in the establishing of international AML/CFT system.
2. Development of international AML/CFT system.
3. Structure of AML/CFT system.
4. The Role of UN-General Assembly and Security Council resolutions in countering money laundering and financing of terrorism.
5. Listing of terrorists and assets freezing.
6. Regional cooperation.
7. Cooperation with private sector. Obligations of financial institutions.
8. Main problems and perspectives.

Theme 5. FATF and FATF-style regional bodies.

1. Establishing and development of FATF.
2. Structure of FATF.
3. FATF – standards and their impact on national laws.
4. Mutual evaluation process.
5. Non-cooperative countries and territories.
6. Research of typologies.
7. Prohibition of proliferation financing.
8. FATF-style regional bodies.

Theme 6. Financial Intelligence Unit (FIU). Egmont Group.

1. Egmont Group's definition of Financial Intelligence Unit (FIU).
2. FIU in international conventions.
3. Types of FIU.
4. Goals of FIU.
5. Financial investigations.
6. Supervision.
7. Egmont Group and international cooperation.

Theme 7. National AML/CFT systems.

1. Main legal acts in the field of countering money laundering and financing of terrorism.
2. Obligations of organizations accomplishing transactions in amounts of money or other property.
3. Compulsory control.
4. Suspicious transactions.
5. FIU's.
6. Supervision.
7. Criminal responsibility for money laundering.

Global Law Program – **Visiting Professor 2013**

Course: Corporate Personhood: The Legal and Economic Significance of Separate Entity Status for Corporations

Professor: Margaret Blair

Workload: 15 hours

Credits: 1

Overview:

This course would examine the evolution of legal rules in Europe and the Americas since the Renaissance by which corporations came to have a legal status that made them “persons” in the eyes of the law. We will consider the economic functions that “legal personhood” serves; how these functions have changed over time; how the law in various countries and legal systems serves this function; and the political problems that arise under different legal systems as a consequence of designating corporations as “persons.” In particular, at the end of the course, we will examine how the U.S. Constitution has been interpreted over time to provide Constitutional protections to corporations, and will consider how similar questions have been dealt with in other legal systems.

Global Law Program – Visiting Professor 2013

Course: International Business Law

Professor: Prof. Dr. Zeynep Derya TARMAN

Workload: 15 hours

Credits: 1

Overview:

Traders buying and/or selling goods or commodities in international markets are involved in complex transactions. The typical transaction involves numerous contracts over national boundaries with a high level of uncertainty and complexity. As an international contract has connections to more than one country, it has to be ascertained in which country's courts an international dispute can be brought or whether an alternative dispute resolution could be taken into account. After this question has been settled, it has to be decided which national law applies or if other substantive rules of an international origin apply. Current developments in this field of law will be examined at a European level as well as a global level. The module will have an emphasis on the practical problems which arise in the international commercial arena.

Students should understand and be able to identify rules, concepts and principles relating to international contracts and cross-border commerce and should be able to evaluate these rules, concepts and principles and apply them correctly

Global Law Program – Visiting Professor 2013

Course: International and European Union Development Law

Professor: Cristina Barenttini

Workload: 15 hours

Credits: 1

Overview:

This course is intended to offer an overview on the growth and strengthening of development law, from the point of view of international organizations and more specifically the European Union.

It starts with attempting to ascertain a legal definition of human rights and following up the gradual recognition of human rights in history, from ancient times to our days. Specific attention is devoted to the recently affirmed 3rd and 4th generation rights, such as right to development, peace, self-determination of peoples, water, clean environment...

The United Nations' approach is taken into consideration, with the Universal Declaration of Human Rights, the Geneva Convention on the Status of Refugees and the UN System for the Protection of Human Rights. The most relevant international regional systems for the protection of human rights in the world are also addressed.

Coming to Europe, the course looks at the Conventions by the Council of Europe, then concentrating on European Union immigration and asylum law and policies, up to the creation of the Common European Asylum System, highlighting strongpoints and critical aspects. The core of the course analyses the key instruments of EU policies on immigration and asylum - discussing the steps towards common policies as well as the most relevant programmes, resolutions, strategic plans and regulations, up to the European Agreement on Immigration and Asylum and the Lisbon Treaty, which makes the European Charter of Fundamental Rights binding – as well as the EU directives on minimum standards for the reception of asylum seekers, trafficking in human beings, qualification as refugees, asylum procedures and returning illegally staying third country nationals.

The final part of the course deals with the European Union's development policy. The growing commitment of the EU in this field, as well as its weaknesses, are discussed with reference to EU support to fair trade and other means for development, to regional and local cooperation programmes and partnerships between the EU and developing countries, and to the new "Energising Development" initiative.

The course aims at offering international students an insight into what stands behind the general concept of "development": the equal right to development for all human beings, and therefore the protection of human rights even in their most recent meanings, the protection of immigrants and asylum seekers, the possible instruments and ways for supporting and enhancing social and economic development on a global scale.

Students will therefore be introduced to the main legal instruments and policies adopted by international organizations, and especially the European Union, towards this scope. They will also be encouraged to work together in mixed international groups discussing relevant documents and case law, in order to strengthen their capability of facing issues from a practical point of view as well as their spirit of collaboration and mutual respect, which is at the basis of any attempt for peace and development.