Global Law Program – Visiting Professor

Course: Negotiation Workshop
Professor: Lynn Cohn
Workload: 15 hours
Credits: 1

Overview:

This workshop is designed to help students improve their skills in negotiation, joint decision making, and joint problem solving, and to enable them to develop these skills further in the future. More specifically, the aims are:

A. To give you an organized theoretical framework with which to analyze problems of negotiation -- one that will help you to keep learning from your experiences.
B. To enable you to experiment actively with a variety of negotiating techniques and your own negotiating styles.
C. To help you become more sensitive to ethical issues in negotiation.
D. To give you some experience with different contexts of negotiation, from legal to diplomatic, from bilateral to multilateral.
E. To improve the workshop, both the content and procedure, by trying out a variety of material and methods and soliciting detailed feedback from you.

References:

✓ The Race Horse - Confidential Instructions - Jockey’s Agent - T.D. Ahrens
Course: Comparative Perspectives on Corporate Governance, Law, and Economic Development  
Professor: Curtis J. Milhaupt  
Workload: 15 hours  
Credits: 1

Overview:

The class will give the student an overview of the US Corporate Governance with a focus on mergers and acquisitions. Also we will discuss and present a research on high economic growth under authoritarian political regimes (which includes discussion of Latin America).

References:

- Fiduciary Duty, Shareholder Litigation and the Business Judgment Rule – Sinclair Oil Corp. v. Levien
- In Re Caremark Int’l Inc. Derivative Litigation – Delaware Court of Chancery, 1996
- Economically Benevolent Dictators:Lessons for Developing Democracies, Ronald J. Gilson & Curtis J. Milhaupt
Global Law Program – Visiting Professor

Course: International Human Rights: Multiculturalism, Cultural Diversity and the question of Universality
Professor: Henry Steiner
Workload: 15 hours
Credits: 1

Overview:

The Purpose of this course is to explore several interrelated questions through general readings and through 3 illustrative studies that will form the backbone of our class discussion. The questions concern a deep dilemma in the international human rights movement as it has developed over the six decades. The movement describes itself as “universal”.
Indeed, its fundamental “charter” of 1948 bears the title of Universal Declaration of Human Rights. Nonetheless, the movement addresses a world of astonishing diversity from such perspectives as tradition, practices, wealth, political and socio-economic system, languages, religion, ethnicity and more broadly culture.

This world of great ethnic and cultural variety has long existed among different regions and states. In current times that diversity also characterizes the internal life of many increasingly multiethinic and multicultural states as a consequence of such global forces as immigration, refugee flow, or temporary labor movements – all facets of the contemporary phenomenon of globalization itself. It is hardly surprising that basic features of some states and peoples conflict with the notion of one universal system of human rights must everywhere reign supreme. How to think about and try to resolve such conflicts, both among states and within a single state’s population, constitutes then the basic orientation of this course.

References:

Course: International Perspectives on Violence against Women
Professor: Diane L. Rosenfeld
Workload: 15 hours
Credits: 1

Overview:

This course addresses various issues on women’s human rights around the world with a particular emphasis on violence against women. The potential for international feminist alliances to stop sexual violence will be one of the foci of the course. Throughout the course, we consider cultural, political and legal dimensions of women’s status as full citizens in the world. No previous experience in women’s legal rights is required.

Unit One: Introduction--Issues of Violence Against Women around the World
We will discuss the prevalence and variation of violence against women in different countries, as well as an overview of attempts to address it. We will begin by examining a multi-country study by the World Health Organization on violence against women. We will then consider women’s legal rights in the context of the occurrence of gender-based violence. As an example of law’s power to intervene in violence against women, we will study the case of Amina Lawal, who was sentenced to be stoned to death for adultery in Nigeria by a Shari’a court. Hauwa Ibrahim, her lawyer, was able to save her life through strategic intervention, backed by substantial international media pressure.

Unit Two: Sexual Coercion, Patriarchal Violence and the Law
To take a different perspective on violence against women, in this Unit we study male sexual coercion among primates and humans, including in small-scale societies in Brazil. Almost all societies have evidence of male sexual coercion that is expressed in numerous different forms and in different degrees of severity. From this study, we analyze the role of male sexual coercion in a patriarchal social order, and identify factors that alter that arrangement.

We then consider violence within marriage and intimate relationships. Domestic violence occurs in all communities regardless of class, race, or geographic location. Here, we will examine the underlying factors that contribute to its prevalence. Particular focus will be on U.S. laws and responses to domestic violence, including promising new law enforcement initiatives that address the unique nature of the problem.

Unit Three: “Rape Is...”
We will screen the documentary film “Rape Is...” (co-produced by Professor Rosenfeld and Cambridge Documentary Films) that examines the problem of rape in its many different forms. From child sexual abuse to rape as a tool of war, we consider the effects of rape on all women, whether or not they have been victimized directly.

Against this backdrop, we will look at the current crisis in Darfur and the unprecedented rate of gang rapes. What is the international community doing to stop it? What can it do? We will consider other major episodes of rapes during wartime, including the sexual slavery of Korean “comfort women” in World War II.

Unit Four: Women for Sale: Prostitution and Sex Trafficking
We will examine questions about prostituted women, including how they became prostituted, who are the men who use women in this industry, and how the market of sex trafficking is regulated. What are the legal initiatives and approaches that would best address these problems?

Pornography is intimately related to prostitution and sex trafficking. It is also an important factor in child sexual abuse. The explosion of pornography on the Internet and its easy accessibility has led to a huge increase in child pornography. We will consider how this trend might be reversed.
Unit Five: Feminists without Borders: Building Female-Female Alliances and the Power to Change the World

In the last Unit, we look at the power and potential of female-female alliances, as well as female-male alliances, to change patriarchal societal structures. We will study and create international collective efforts to stop violence against women around the world.

References:

- WHO Multi-country Study on Women’s Health and Domestic Violence against Women;
- Sexual coercion, Patriarchal Violence and Law.
- GPS Monitoring Systems for Batterers: Exploring a New Paradigm of Offender Accountability and Victim/Survivor Safety - By Diane L. Rosenfeld (with Kirstin Scheffler)
Course: Advanced Intellectual Property Law
Professor: William Fisher
Workload: 15 hours
Credits: 1

Overview:

This one-week course will examine in depth five controversial issues in intellectual-property law. We will compare the ways in which different countries address these issues -- and will consider the insights that can be gleaned from current legal scholarship.

References:

- Counterfeit Chic (roam around the site for a bit)
- Antonio C. Guedes and Maria Jose Sampaio, "Genetic Resources and Traditional Knowledge in Brazil" (forthcoming Harvard Law Review 2010)
- Fisher & Syed, "A Prize as a Partial Solution to the Health Crisis in the Developing World" (2009)
- The Health Impact Fund: Making New Medicines Accessible for All (2008)
- Fisher & Rigamonti, Case Study on the South Africa AIDS Controversy
- Verizon, HBS Case Study ____ (2010)
- Quanta Computer, Inc. v. LG Electronics, 128 S.Ct. 2109 (2008)
Global Law Program – Visiting Professor

Course: Dispute Resolution Process
Professor: Beth Schwartz
Workload: 15 hours
Credits: 1

Overview:

The course will discuss various Dispute Resolution Processes, including: litigation; arbitration; negotiation; mediation.
Will also create a structure for the participants to Identifying Issues for Resolution; Identifying Options for Resolution; Creativity and Problem-Solving; Gender and Cultural Considerations; Dealing with Impasse; Drafting Agreements.

References:

✓ Tom Arnold – Twenty Common Errors in Mediation Advocacy
✓ BUILDING THE LATIN AMERICA WE WANT: SUPPLEMENTING REPRESENTATIVE DEMOCRACIES WITH CONSENSUS BUILDING – Mariana Hernandez Crespo
Global Law Program – Visiting Professor

Course: Constitutionalization of Investment Law
Professor: M. Sornarajah
Workload: 15 hours
Credits: 1

Overview:

2. British colonial expansion. The practice of extraterritoriality in China and the Middle-East. The role of international law in supporting colonialism. The creation of doctrine which justified imperial expansion and changing attitudes to trade and property. Freedom of the high seas. The right to individual property and destruction of common ownership of property.
3. Constitutional norms of private property protection emerge but are enforced through the imperial system.
5. Here there is a lack of a system but finally, power equations result in conflicts being settled by Claims Commissions which develop the law. The Neer Claim (1926) stating the notion of denial of justice. Initial competence in the domestic courts. Only upon obnoxious and atrocious failure to provide justice would an international claim arise. A compromise as there is a duty to exhaust national remedies. M. Sornarajah, The International Law on Foreign Investment (Cambridge University Press, 2010). In package.
6. The neo-classical view on foreign investment. Benefits of foreign investment emphasized: creation of capital pools, releasing domestic capital for other investment, like infrastructure, etc.; technology transfer; transfer of management skills to local personnel; export earnings.
7. The theory would obviously favour strong protection being given to foreign investment on the basis that flows of foreign investment necessary for economic development will take place only if there is such protection.
8. It would require strong constitutional documents at the national level ensuring protection of capital assets and property, ready recourse to external arbitration and the use of foreign law if necessary on the grounds that local law will not assure foreign investor sufficient guarantees. The only way to escape foreign scrutiny is to maintain good constitutional safeguards of property rights.
9. The dependency school. Strongest in Latin America. Centre-periphery relations brought about by integration of states through investment of multinational corporations. The only meaningful way of ensuring development is through break-up of this cycle of dependence.
10. We leave out of course, the communist bloc which did not recognize foreign investment.
11. The theory favours national treatment and nationalization of foreign investment to end cycle of dependence.
12. The rise of neo-liberalism. The characteristics of neo-liberalism. Property rights; contract rights; judicial settlement of contract and property disputes; redefinition of the rule of law; operation of free market mechanisms; competition laws ensuring free market model; political democracy.

15. Given the context of the legal conflict, the project to bring about more certain law.
16. The attempt at secondary, procedural norms. The establishment of ICSID (1965). The procedural rules on state responsibility. This ensures that procedure and institutions are created enabling the pronouncement of substantive principles.
17. Protection through contract. Elevation of the contract into the international plane, making it immune to national law. The theory of internationalization of the foreign investment contract. Stabilisation clause; choice of law clause indicating general principles of law; overseas arbitration. Texaco v Libya (1972) as the high point of the theory of internationalization. Policy rationales for internationalization.

18. Reaction of developing countries. The doctrine of permanent sovereignty over natural resources. Constitutional provisions and foreign investment laws requiring the localization of foreign investment through the idea that people have an interest in their economy, particularly in natural resources. The change in the types of foreign investment contract. In the oil sector, the change from concession agreements to production sharing agreements. In other sectors, the wide prevalence of joint ventures as the form of entry of foreign investment.


20. The role of investment treaties as securing an accommodation. The internal balance that was secured ostensibly on the basis that inflows help economic development and these will not take place without treaty protection.

21. The end of the Cold War. The “end of history”. The emergence of neo-liberalism. The tenets of neo-liberalism. The emphasis on property rights. The emphasis on contractual sanctity as the organizing principle of business. The redefinition of the rule of law. The resort to legalism to justify the economic views. The role of dispute resolution in the justificatory process. The globalization phenomenon used as justification. The argument for the multilateralization of norms. In trade, this was a reality through the WTO. In investment, the attempt at MAI and later, at the WTO. Failure. The thesis that multilateralization is possible through construction of trends; (customary law, precedent in arbitration, repetition of principles in bilateral investment treaties).

Sornarajah, International Law on Foreign Investment (Chapter 1)

Schill,


24. Manipulation of the most favoured nation clause. Maffezini v Spain.


Substantive principles


27. The international minimum standard. Its history. The Neer Claim (1926); Efforts to relax the Neer Claim standard.


29. Elsewhere, expansion of the standard. CMS v Argentina. The Argentinian cases. The linking of the fair and equitable standard to legitimate expectations in English arbitration law. The succession of cases. MTD v Chile; Mediambelatos v Mexico. Transparency.

30. Expropriation. The structure of the expropriation provision and its history. Similar expansion. Ethyl v Canada. Contraction as a result of reaction. Methanex v USA. The emergence of the notion of regulatory expropriation. This takes the wind off the sails of expropriation law.

31. The link between the fair and equitable standard and expropriation.

32. The backlash. The emergence of conflicting decisions on virtually every aspect of the law. A crisis of legitimacy.


34. The contested areas of interpretation: Limiting definition to investment that promotes economic development. Dissent in Malaysian Salvors v Malaysia.
35. Contesting fair and equitable treatment: Fairness requires that the foreign investors conduct be taken into account. This would convert the procedure of investment protection into almost like an Alien Torts Claims Act procedure and prove uncomfortable to the foreign investor.

36. The impact of extra-treaty factors. Contrast Santa-Helena v Costa Rica to the modern views that environmental concerns should be taken into account. BP oil spill.

37. Likewise, human rights and labour rights standards become relevant. The role of the NGOs. The argument that the dispute may implicate social and international interests. Eg. In cultural property, Parkerings Case.

38. The UN study on multinational corporations and human rights.

39. After Methanex, the relevance of the public interest in health, morals and welfare of the people has been established as a consideration in the more recent treaties. It would probably be read into all treaties.

40. The course of the Argentine cases. The annulment procedure in CMS and Sempra. A turn in the case law seems evident. The role of the defence of necessity and subjective national security have been recognized.

41. Investment arbitration is now in a state of flux. One wonders whether Brazil was right in keeping off treaties.

42. Considerable doubt whether treaties do result in investment flows. The decline of neo-liberalism. The use of nationalization to deal with banking problems in the UK and elsewhere.

References:

✓ CMS Gas Transmission Company v. Argentine Republic (ICSID Case No. ARB/01/8) (Annulment Proceeding)
✓ I.C.L.Q. 2010, 59(2), 325-371 - International & Comparative Law Quarterly
✓ International Centre for Settlement of Investment Disputes - Washington, D.C. Sempra Energy International (Claimant) v. Argentine Republic (Respondent/Applicant) (ICSID Case No. ARB/02/16) (Annulment Proceeding)
Global Law Program – Visiting Professor

Course: Law & Development in East Asia
Professor: John Ohnesorge
Workload: 15 hours
Credits: 1

Overview:

This course is designed to introduce participants to the history of economic development in modern Northeast Asia, the era of the so-called “developmental states,” and to the various roles played by law and legal institutions in that development experience. The materials will deal with Japan, South Korea and Taiwan during their developmental state phases, as well as the People’s Republic of China of today. Reading materials will address specific areas of law and regulation in the context of the region’s different societies in order to provide an overall analysis of law and development in the region.

References:

- Woo, Jung-en, Race to the Swift, pp. 148-175 (Chapter 6: The Political Economy of Korea, Inc.).
- Yoon, Dae-kyu, Law and Political Authority in South Korea, pp. 109-149 (Chapter V: Legal Professions and Judicial Independence).
Course: The Law and Politics of Racial Affirmative Action in the United States
Professor: Randall Kennedy
Workload: 15 hours
Credits: 1

Overview:

The short term course aims to develop on students knowledge of the controversial topic in the United States: the practice known as racial “affirmative action”. This practice is highly contested in Brazil as well. This course will be able to make fruitful comparisons between the two countries. Given the political imposed by an electorate that is ambivalent about the requirements of racial equality in the United States, affirmative action has been, a sensible, albeit modest, reform.

References:

- Fair Shakers and Social Engineers – Morris B. Abram
- Debating Affirmative Action: Race, Gender, Ethnicity and the Politics of Inclusion; edited by Nicolaus Mills, Delta, New York, 1994
- The left Alternative; Roberto Mangabeira Unger, Verso, New York, 2005
- LA Times – Affirmative Action’s time is up – August 2nd, 2010
Global Law Program – Visiting Professor

Course: Perspectives on EU Monetary Union after the Global Financial Crisis: legal aspects
Professor: Damian Chalmers
Workload: 15 hours
Credits: 1

Overview:

This week-long session tries to give an introduction to the central institutional and regulatory features of the EU financial system, how it has responded to the crisis and where the crisis is leading it. Inevitably, the course has a Eurocentric tinge but I will try to open it out to explore the implications for the global financial system in general and Brazil, in particular. It is worth remembering, in this respect, that the EU is world’s biggest economy (10% bigger than the US and three times bigger than China) and holds considerably more banking assets than any other World jurisdiction. How it responds to the crisis will be fairly central to the future of the world economy.

A feature of this course is that the norms and events are still happening! Much is still at the stage of proposal and there is limited considered academic literature on what is taking place.

References:

- Chalmers et al EU Law (2006, 1st Edition) Ch 18 section 3 only
- Directive 2006/48/ EC relating to the taking up and business of credit institutions, OJ 2006, L 177/1, articles 6-12, 40-42, 123 & 124
- EC Commission, Proposal for a Regulation on Community macro prudential oversight of the financial system and establishing a European Systemic Risk Council, COM (2009) 499
- EC Commission, Proposal for a Regulation establishing a European Banking Authority, COM (2009) 501
✓ High Level Group on Financial Supervision in the EU, (de Larosière Report)(2009, Brussels) 7-29 & 38-58
✓ Begg, Regulation and Supervision of Financial Intermediaries in the EU: The Aftermath of the Financial Crisis (2009) 47 JCMS 1109
✓ Dejmek, ‘The EU Internal Market for Financial Services – A Look at the First Regulatory
✓ Response to the Financial Crisis and a View to the Future’ v (2008-9) 15 Columbia Journal of European Law 455
✓ The Architecture of EMU
✓ Chalmers, EU Law (2010, CUP, 2nd Edition) chapter 17 except pp 721-727 (can be skimmed)
✓ Creation of New Mechanisms of Economic Governance: Conclusions of European Council of 17 June 2010
Paras 9-13
Course: Law & Development
Professor: David Trubek
Workload: 15 hours
Credits: 1

Overview:
This seminar explores the role of law in economic development in Brazil. We start with a short history of the field of law and development. The second class looks at the past: we review the role of law in the development of the Brazilian capital market 1965--70. The next two classes look at recent studies of law and development in Brazil: these have been prepared for the conference on Law and Development in the BRICs to be held at FGV on Nov. 3-4. Students are encouraged to attend the conference. The final class will look more generally at the relationship between law and the new role of the state in the development of Brazil and other countries.

References:

- Trubek, Law and Development in the Twenty-first Century
- Trubek, Law, Planning and the Development of the Brazilian Capital Market
- Mario Schapiro, Banco de Desenvolvimento, regulação e autho-regulação complementaridade regulatória no mercado brasileiro de capital de risco
- Michelle Ratton Sanchez and Daniela Godoy, Desafios regulatórios do comércio internacional para o Brasil e algumas lições da promoção do etanol
- Trubek, Developmental States and the Legal Order: Toward a New Political Economy of Development and Law
Course: International Tax  
Professor: Jeffrey Colon  
Workload: 15 hours  
Credits: 1

Overview:
This seminar will examine bilateral income tax treaties with particular emphasis on the OECD Model Convention on Income and Capital and related Commentaries. It will review the historical development of the OECD Model Convention, examine the various elements of a treaty, and briefly cover how treaties are made. We then turn to the scope of tax treaties and the definition of resident, including a discussion of issues raised by partnerships. It next covers the treatment of returns on investment capital, such as dividends, interest, royalties, and capital gains. The taxation of personal services income, including pensions, is addressed next followed by a discussion of the taxation of business profits and treaty mechanisms to relieve double taxation.

The final portion of the seminar will cover treaty shopping, the interpretation of treaties, including treaty overrides, and issues raised by treaties between capital importing and capital exporting countries.

There are no specific prerequisites for the seminar, although some exposure to or understanding of basic tax or accounting concepts, e.g., gains, losses, dividends, and profits, is useful.

The course is relevant for those students who plan to practice in the tax or business area or scholars who have an interest in understanding perhaps one of the most important and well functioning regimes for regulating international commerce.

References:
The materials and reading assignments for the class can be found at:  
Global Law Program – Visiting Professor

Course: The Clean Water Act
Professor: Michael J. Chappell
Workload: 15 hours
Credits: 1

Overview:

This course surveys the field of United States environmental law, with an emphasis on the Clean Water Act. The class will focus on how the statute protects waters of the United States by regulating discharges of pollution to those waters. The class will begin with a discussion of the role of the Courts in interpreting and enforcing environmental laws in the U.S.. Following a brief introduction to the history of environmental law in the U.S., we will review the major environmental statutes that protect natural resources in the United States. We will quickly move to a discussion of the Clean Water Act, and how environmental groups utilize the law to further their mission to protect water bodies in the United States. The class will be a combination of lecture, class discussion, breaking into groups for a more detailed discussion. Topics will include discussions on the role of regulatory agencies in defining and implementing the statute, the public’s ability to shape and enforce the statute, the impact of judicial decisions on the law and its regulations, and how to apply the legal theories in practice to prosecute a Clean Water Act case.

References:

  http://www.cals.ncsu.edu/course/are309/cases/rapanosedited.pdf
☑ Friends of the Earth, Inc. v. Laidlaw Environmental Services, 528 U.S. 167 (2000)
☑ Gwaltney of Smithfield, Ltd. v. Chesapeake Bay Foundation, Inc., 484 U.S. 49 (1987)
  http://openjurist.org/13/f3d/305/committee-to-save-mokelumne-river-v-east-bay-municipal-utility-district
Course: International Investment Law
Professor: Charles Maddox
Workload: 15 hours
Credits: 1

Overview:
This course will give an overview and introduction to the International Investment Law and its historical context. We will also study the following points: Competing Theories, TRIMS’s and GATTS, Most Favored Nation Treatment and Investment, Towards a Unified System?, ICSID, What is Investment?, Expropriation, Standards of Protection, Exon in Ecuador and Investment Contracts and Host State Controls

References:

- M. Sornarajah, The International Law on Foreign Investment, Cambridge University Press 2010, pgs. 1-87
- Whenhua Shan, Is Calvo Dead? 55 Am. J. Comp. L. 123
- Nicholas DiMascio and Joost Pauwelyn, Nondiscrimination in Trade and Investment Treaties: Worlds Apart or Two Sides of the Same Coin? 102 AJIL 48
- Michael Hwang, Jennifer Fong Lee Cheng, Definition of “Investment”—A Voice from the Eye of the Storm, 1 Asian J. Int’l L. 99
- Carlos Garcia, All the Other Dirty Little Secrets: Investment Treaties, Latin America, and the Necessary Evil of Investor-State Arbitration, 16 Fla. J. Int’l L. 301
- Rudolf Dolzer and Christopher Schreur, Principles of International Investment Law, Oxford University Press 2008, pages 89-194
- M. Sornarajah, The International Law on Foreign Investment, Cambridge University Press 2010, pgs. 276-305
Course: Law & Development  
Professor: Upendra Acharya  
Workload: 15 hours  
Credits: 1  

Overview:  
Western concept of freedom, equality and democracy based on economic rationalization of values-freedom, equality and democracy; Universalization of economic rationale of values; Globalization of liberal democracy through economic rationale of values; How economic rationale has shaped politics and political decisions and both in collaboration have helped define and redefine law and legal process; Major players of economic and political decisions and their role in dictating law and legal process; The concept of development in the developed and developing societies; Defining development-is development a legal and equity concept or economic concept?

References:  
✓ Knowledge and Power: Michel Foucault – pages 61 – 73  
✓ State, Law and ideology – pages 198 - 203  
✓ Commodity Form and Legal Form: an Essay on the Relative Autonomy of the Law – Isaac D. Balbus  
✓ The strangers of the Consumer Era – pages 35 – 41  
✓ International Journal of social Inquiry – volume 1 number 2 2008  
✓ Hegemony, Aid & Power: A Neo-Gramscian Analysis of the World Bank – Sadik Unay
Global Law Program – Visiting Professor

Course: Reforms in the period of transition to democracy and market economy after totalitarian regime: Bulgaria, Poland, Ukraine, Chile, Latvia, Estonia, Kyrgyzstan, Russia
Professor: Ekaterina Mishina
Workload: 15 hours
Credits: 1

Overview:

At this course we will study the constitutions similarities and differences and the transitions on the market economy in the post-soviet States.
How the Legal profession works in the time of transition, as well how the corruption was one of the main obstacles to democratic reforms.
As well we will study the Constitutions, historical prerequisites and achievements and failures from these states.

References:

- Constitutions from the following countries, that will be provide during the course:
  - Bulgaria;
  - Chile;
  - Poland;
  - Ukraine;
  - Estonia;
  - Latvia;
  - Russian Federation.
Course: American Corporate Law  
Professor: Randall Thomas  
Workload: 15 hours  
Credits: 1

Overview:

A study of the modern American business corporation both publicly held and closely held enterprises, including the organization and financial structuring of corporations: the allocation of control among shareholders, directors, and officers; the responsibilities of management and controlling shareholders; and the issuance of corporate securities.

References:

- Klein, Ramseyer and Bainbridge, Business Associations, Sixth Edition
- The Nature of the Corporation: pp. 202-218, 328-332
- The Duties of Officers, Directors: pp. 332-373
- Closely Held Corporations: pp. 374-412, 599-629, 664-686
- Shareholder Voting: pp. 630-651, 533-543, 571-585
- Mergers & Acquisitions: pp. 768-818
Global Law Program – Visiting Professor

**Course:** SECURITIES REGULATION: A LAW AND ECONOMICS APPROACH  
**Professor:** Merritt B. Fox  
**Workload:** 15 hours  
**Credits:** 1

**Overview:**
Welcome to Securities Regulation: A Law and Economics Approach.  
Over the last few decades, finance has become a field of serious scientific study. It has been increasingly used by scholars as a method for analyzing issues in securities regulation. Particularly in the United States, this trend has had a significant influence on decisions relating to securities regulation made by the legislature, the courts and the SEC. This course will explore the use of financial economics as a normative tool to suggest the best way to regulate securities transactions.  
The course will use economic analysis to address four large topics that are central to the study of securities regulation: mandatory disclosure, insider trading regulation, enforcement through civil damage actions, and the allocation of regulatory authority with respect to transactions with transnational features.  
The course will be taught around a set of lectures that will be backed by power point presentations, interspersed with questions and discussion. These power point presentations will be made available after each class. The critical thing to succeed in this course is that you master the ideas behind these presentations.

**References:**
- Langbein & Posner, Social Investing and the Law of Trust  
- Modigliani and Posner; An Introduction to Risk and Return: Concepts and evidence  
- Easterbrook & Fischel, Mandatory Disclosure and the Protection of Investors  
- Coffee, Market Failure and the Economic Case for a Mandatory  
- Roberta Romano, Empowering Investors: A Market Approach to Finance  
- Merritt B. Fox, Retaining Mandatory Securities Disclosure: Why Issuer choice is not Investor Empowerment.
Global Law Program – Visiting Professor

**Course:** Business and Human Rights  
**Professor:** David Bilchitz  
**Workload:** 15 hours  
**Credits:** 1

**Overview:**

The goal of this course is to explore a number of topics relating to the responsibility of business for human rights. Traditionally the focus has been on the obligations of states; yet, a recent growing movement has recognized the importance of considering the obligations of business (and corporations in particular) for the realization of rights. The course will take place over three evenings and the lectures are divided accordingly into topics that will be covered during those evenings. Students should read the material prescribed so that classes can discuss the interesting issues and questions that arise.

**References:**

- The IG Farben Trial (United States of America v Carl Krauch): please read as an overview and try and focus on relationship between individuals and corporation
- Universal Declaration of Human Rights 1949
- OECD Guidelines on Multinational Enterprises
- Global Compact available at [http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html](http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html)
- D Kinley and J Tadaki ‘From Talk to Walk: The Emergence of Human Rights Responsibilities for Corporations in International Law’ pp 948-960.
- Human Rights Watch ‘On the Margins of Profit’
- SA Companies Act Section 7 and section 76
- Khumalo v Holomisa
- Ruggie framework and Guiding Principles on Remedies
Global Law Program – Visiting Professor

Course: TRADE POLICY FORMULATION AND PARTICIPATION IN WTO DISPUTE SETTLEMENT BY LEADING EMRGING ECONOMIES
Professor: James Nedumpara
Workload: 15 hours
Credits: 1

Overview:
Emerging economies such as Brazil, China and India occupy a central role in driving the global trade agenda. These economies have also opened up their markets significantly in the last two decades and have undertaken key economic reforms. These emerging economies, also being Members of the World Trade Organization (WTO) have played a key role in shaping the WTO jurisprudence by being either a complainant or a respondent in some of the landmark WTO disputes. This short course will provide a bird’s eye view of the shifts in trade policy undertaken by the above emerging economies over a period of time and their current thrust in trade policy formulation. The course will also examine a few selected cases involving the above countries which have had a systemic importance for the WTO and in illuminating the WTO jurisprudence. This course will seek to examine and appreciate the role and importance of some of these cases within the overall context of the trade policy orientation of the concerned economy.

Given the short nature of the course, only a few reading materials are indicated in the syllabus. However, the course instructor will provide brief case notes and power point slides before the commencement of the class.

References:
✔ Pedro da Motta Veiga, Brazil’s Trade Policy: Moving Away From Old Paradigms, 2008
✔ Jeffery Gertler, What China’s WTO Accession is All About? (2002)
✔ WTO Secretariat, Summary of Trade Policy Review of India (2011)
✔ edited cases are available at www.worldtradelaw.net
Global Law Program – Visiting Professor

Course: Understanding Business Litigation
Professor: Larry A. Weiser
Workload: 15 hours
Credits: 1

Overview:

The United States of America does not have a single legal system. Instead, dozens of systems operate simultaneously, each with its own, largely independent structure. These include one for the federal government; one for each of the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands; and one for each of many Native American tribes.

To understand the various legal systems, it is necessary to understand the allocation of power between the states and the central government.

Federal power is limited to those areas entrusted to the central government by the Constitution of the United States. Congress is empowered, among other things, to regulate interstate and foreign commerce, establish post offices, declare war and maintain order, raise and maintain armed forces, punish counterfeiting and piracy, regulate naturalization, and make rules on bankruptcy, patents, and copyrights. In addition to its specific powers, Congress is authorized to make all laws necessary and proper for carrying into execution the powers vested in the central government. Within the areas enumerated, but only within them, Congress may legislate and thereby impose criminal and civil responsibility upon individuals. It cannot define crime generally for the nation as a whole, nor can it establish a general national law of torts, contracts, or domestic relations. But when Congress acts within the sphere of its constitutional authority, it is supreme and its laws supersede any conflicting state laws.

All power not vested in the federal government is reserved to the several states, each of which is legally the equal of every other. Thus, each state has its own laws on virtually every aspect of human interaction, from crime to contract, and dealing with virtually every societal goal and function, from environmental protection to education. No one of them is allowed to usurp the legitimate powers of any other any more than it is allowed to interfere with legitimate federal power. It is not surprising, therefore, that the law varies significantly from state to state. Conduct that is criminal in Kentucky may be completely legal in Minnesota; grounds for divorce in Nevada may differ vastly from those recognized in Vermont; and a prosecution that would have to be initiated by the indictment of a grand jury in Maine may be initiated in California by the accusation of a prosecuting attorney.

References:

✓ Riggs v. Palmer - 22 N.E. 188 (N.Y. 1889), EARL, J.
Global Law Program – Visiting Professor

Course: Law, Development, and Globalization
Professor: Cesar Garavito
Workload: 15 hours
Credits: 1

Overview:
This course explores the challenges of law and development in a global context characterized by three fundamental transformations: the rise of the global South in world politics and economics, the revolution in information technologies, and the deterioration of environmental conditions. Based on a combination of legal and social scientific documents and videos, we will analyze the relations and tensions between these processes, and the legal frameworks that are emerging to deal with them.

We will begin with an overview of contemporary theories and empirical studies on law, institutions and development. We will then discuss specific areas of transnational and national regulation where the above processes have given rise to heated academic, policy and legal debates. Finally, we will apply the conceptual and empirical tools acquired in the first two sections of the course to the study and discussion of specific cases that embody the dilemmas of contemporary law and development, including the Belo Monte dam case in Brazil.

References:
- Shelton, D. & D. Antón, Environmental Protection and Human Rights (Cambridge Univ. Press, 2010).
- Trubek, D. “Developmental States and the Legal Order: Toward a New Political Economy of Development and Law” (draft)
Overview:
This course analyzes the effects of Latin America’s courts on public policy. Rising independence, increasing resources, and the wave of democratization that has taken place over the past generation have pushed many of the region’s courts to the forefront of policy debates. Courts play an essential role in protecting human rights, adjudicating crimes, checking and balancing other branches of government, defending property rights, and guaranteeing the rule of law. However, as the third, unelected branch of government, the judicialization of politics and policy frequently places courts in a difficult strategic position. They may be used by third parties to constrain the executive or legislative branches, employed to alter the policy agenda, or activated to change the course of contentious policies. In doing so, courts may run up against policy preferences that diverge from their legal preferences, with the menacing possibility that a sincere decision on legal grounds may trigger conflict or non-compliance.
Drawing on a vibrant recent literature regarding courts and public policy in Latin America, this course will explore various dimensions of courts’ activation, their strategies and their policy impacts. We will approach this question from a number of analytical perspectives, most from outside the canon of legal scholarship. The objective of this course is two-fold: first, to illustrate how scholars from outside the legal field evaluate the effects of courts on public policy; and second, to illustrate the breadth of new empirical research on courts’ policy effects in Latin America.

References:


