

The Dickson Poon School of Law

KING'S
College
LONDON

King's LLM

Transnational Law module descriptions for prospective students 2017–18

This document contains module descriptions for modules expected to be offered under the LLM programme starting in 2017-18, to be used as an indication of the programme's options and a way of informing your decision to study at The Dickson Poon School of Law. King's reserves the right to change the content of the modules, as well as whether or not a module is running in any particular year if the circumstances so dictate.

Note that individual terms and conditions for entry onto a module may apply, such as prerequisites or caps on the total number of students. These will be communicated clearly after enrolment onto the programme and before you are asked to make your module selection.

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King's LLM

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7FFLA022

CONTESTING GLOBALIZATION: NEW THEORIES IN TRANSNATIONAL LAW AND GLOBAL GOVERNANCE

40 CREDITS – FULL-YEAR MODULE

This full-year module focuses on 'globalisation' as an interdisciplinary object of academic study and a reality of contemporary world order. Through an examination and engagement with newest scholarship in law, political science, legal anthropology and legal geography the module will provide a much-needed perspective on emerging and evolving projects of interpreting and shaping the current world order. The module starts from the premise that the geopolitical arrangements of the latter half of the 20th century of 'embedded liberalism', decolonisation, 'the end of history' have given way to a reconfiguration of transnational sovereignties under conditions of global 'emergencies' such as climate change, security, surveillance and economic austerity.

Given (Western) law's deep roots in institutionalised political, territorial and sovereign settings, the 21st century transformations of international and regional, political, cultural and religious relations place enormous pressure on established theories of democracy, the rule of law and social order. Under those circumstances, academic debates around theories, concepts and 'schools of thought' attain tangible political and practical significance. As legal theories such as 'Global Constitutionalism', 'Transnational Regulatory Governance', 'Global Administrative Law' and 'Third World Approaches to International Law', claim explanatory value, they emerge in tension with global governance, cosmopolitanism, pluralism and spatialisation concepts that are put forward in the social sciences. The module will explore these theoretical proposals in the context of contemporary debates around global financial regulation, climate change governance, security and the 'war against terror', 'big data', privacy and surveillance as well as new formations of democratic representation.

7FFLA023

HUMAN RIGHTS LAW: INTERNATIONAL AND TRANSNATIONAL PERSPECTIVES

40 CREDITS – FULL-YEAR MODULE

This module aims to provide students with a solid foundation in international and transnational human rights law – widely conceived as one of the most important legal fields in a global context today. We cover the core of human rights protected under international law, including civil and political rights such as freedom of speech and religion, political participation, fair trial and the right not to be tortured, and social and economic rights such as health, education, housing and an adequate standard of living. The objective is to develop, over the course of the academic year, an analytical framework for understanding and critically analysing the international and transnational institutions and mechanisms in place for the protection of human rights, and to provide an effective preparation for the real-world challenges of transnational human rights practice.

We begin by offering an overview of the development of the idea of human rights and the international legal institutional framework for its protection, as well as its philosophical and political underpinnings and challenges to the idea of universal human rights. We then cover the practical functioning of selected human rights monitoring mechanisms with particular emphasis on their effectiveness and the political and institutional challenges and obstacles they face. This segment will constitute the core of the course and allow students to explore the foundations of human rights and their significance in concrete interpretive contexts.

7FFLA079

LAW AND SOCIETY IN CHINA

40 CREDITS – FULL-YEAR MODULE

This one-year (40 credits) module will provide students with a foundation in law and society in the People's Republic of China ('China'), as one of the most important, but also challenged and challenging, legal-political systems in the world today. Our objective is to facilitate, over the course of the academic year, a critical understanding of how law operates in Chinese society, and to prepare students for future engagement with Chinese law in various professional contexts. Specific topics to be addressed will include the role of law in Chinese history; the legacy of Mao Zedong and legal reform in the post-Mao era; central aspects of the judicial process, dispute resolution systems and access to justice; the basic principles of private, commercial and administrative law; central issues in criminal justice; the role of civil society and human rights advocacy; and transnational aspects of rule of law development in China. A central claim underlying the design of this module is that these topics should be studied in their entirety and in context.

7SSWM049

INTERNATIONAL LAW AND WAR

40 CREDITS – FULL-YEAR MODULE

This module will cover both international law on the use of force (*jus ad bellum*) and international law governing the conduct of warfare (*jus in bello*). The *jus ad bellum* part will begin with an analysis of the prohibition on the use of force in Article 2 (4) of the United Nations Charter and will then proceed to examine the exceptions to the prohibition: those codified in the UN Charter (self-defence, collective security) and those which are not (e.g., humanitarian intervention).

We will review and assess the basic *jus ad bellum* doctrines, while also examining various armed conflicts in relation to which these doctrines have been applied and shaped. Throughout the module, you will be invited to think about *jus ad bellum* as a contested field in which different actors – legal advisers to foreign offices, military lawyers, international lawyers working for NGOs, legal scholars, activists and others – play a part.

In the *jus in bello* part of the course, you will become familiar with the relevant customary and treaty law, and engage in a critical analysis of judicial decisions and state practice. The issues that will be addressed include: the distinction between international and non-international armed conflict; the protection of civilians; the law of weaponry and the conduct of hostilities; the relationship between international human rights law and the *jus in bello*; the law of occupations; and questions of enforcement and implementation.

Throughout the course, current debates on the changing nature of warfare, with a focus on the extent to which they have informed the practice of state and non-state actors, will be considered.

7FFLA021

FINANCIAL RISK STABILITY & REGULATION

20 CREDITS – HALF-YEAR MODULE

This is the foundation module in financial risk and financial regulation. It explains what modern commercial banks and investment banks do, what products and services they develop and offer (now usually at the international level), what risks they take, what the legal and regulatory concerns are in terms of their operations, risk management and client protection, and how modern law and regulation attempt to deal with these matters.

The further subject is the operation of the modern financial markets in bonds, equities and derivatives, the manner in which these investments are now issued, traded and held; the trading, custody, clearing and settlement of these financial products; and the modern legal frameworks that operate in this connection and the regulatory principles that apply.

Finally the principle issues and concerns in investment management will be discussed as well as the regulatory regime concerning this activity.

This is module is practical as well as conceptual. You do not need prior knowledge in the field of modern finance.

7FFLA034

INTERNATIONAL REFUGEE LAW

20 CREDITS – HALF-YEAR MODULE

This course sets out to undertake a critical review of the evolving strategies for protection of the refugees under international, regional and domestic law, with particular reference to transnational legal decisions from across the world. It will examine the origins and evolution of refugee law, who is protected by international, regional and domestic refugee law, why the protection does not extend to wider groups of people (e.g. environmental refugees), and will assess the scope and limits of refugee rights. As wars rage in the Middle East and beyond, it will consider the various legal and policy impediments to asylum-seeking, who is admitted and who is not, and how transnational developments and initiatives can assist in the protection of forced migrants. Refugees are the leading trans-border issue in the world today. Yet, there is no world refugee court that can hand down authoritative decisions on refugees. All major human rights violations, such as human trafficking, religious affiliation and conscientious objection, sexual orientation and gay rights, sexual violence and female genital mutilation, and indiscriminate attacks against civilians in 'war zones' – affect refugees and determine their numbers world-wide. Each of these issues requires transnational solutions and will be considered in this module.

7FFLA058

TRANSNATIONAL & COMPARATIVE COMMERCIAL AND FINANCIAL LAW

20 CREDITS – HALF-YEAR MODULE

This module is set against the background of the internationalisation of the flow of goods, services and capital. It studies the private law response to this development and the emergence of trans-national commercial and financial law as a new *lex mercatoria* to support these flows. In this context, the creation of a new legal order is discussed and the spontaneous development of an independent international normativity in it, the sources of law that become relevant in this connection and the hierarchy amongst them.

The function and approaches of official or unofficial international bodies in the formulation of industry practices, like the ICC in the Incoterms and UCP, of Unidroit and Uncitral in the formulation of uniform law like for the international sale of goods and receivable financing, or of groups of academics in the formulation of principles, like those of contract and trust law, will also be discussed. Their findings will be compared with those adopted in the US, especially in the Uniform Commercial Code.

At the academic level, this module will study the operation of the major legal systems, especially those of Common and Civil Law. At the practical level, it will consider the details especially of the modern laws of contract, sales, agency, payments, personal property, trusts, secured transactions, conditional sales, financial leases, repurchase agreements, factoring, securitizations and financial derivatives including swaps.

7FFLA067

TRANSNATIONAL CORPORATE RESTRUCTURING

20 CREDITS – HALF-YEAR MODULE

In a world which is dominated by global trading and free movement of capital and investment it is very likely that insolvency proceedings will not be hermetically contained in a single jurisdiction. Large multinational companies will often conduct business via a multitude of subsidiaries and branches in a number of different jurisdictions worldwide. Thousands of shareholders and debt investors may be scattered around the world. Even small and medium sized companies may have had dealings with parties from other countries, or may own or have interests in property which is located in different jurisdictions. Liabilities may be owed to parties domiciled in a different country from that of the debtor; or the relevant obligations may be governed by foreign law; or may be due to be performed abroad. These situations give rise to complex issues in respect of conflict-of-laws as well as the substantive law of insolvency and reorganisation.

The module is set against this background. In the first part of the module important issues of substantive corporate insolvency law will be analysed on a functional and comparative basis, taking into account the laws of major Western economies (US, UK, Germany, France). Over the last decade the three European jurisdictions under consideration have substantially reformed their insolvency laws (Germany in 1999, UK in 2002, France in 2005 and again in 2008/09). Chapter 11 of the US Bankruptcy Code has in many respects influenced these reforms and facilitated the rise of the rescue culture in Europe. Accordingly, particular emphasis will be put on the law of corporate reorganisation inside as well as outside formal proceedings (workouts). Despite this remarkable trans-Atlantic convergence, substantial differences remain, not least resulting from the interaction of corporate insolvency law with other areas of law such as company law, contract law and property law. We will trace these differences and try to explain them in the light of their social and economic contexts.

In the second part, the module will focus on the national and international instruments dealing with the conflict-of-laws issues in transnational corporate insolvency and reorganisation: the European Insolvency Regulation, the UNCITRAL Model Law on Cross-Border Insolvency, its implementation in the UK and the US, as well as Domestic Jurisdiction in the United States. The issues of jurisdiction, recognition of foreign proceedings, judicial cooperation in concurrent proceedings and the applicable law pursuant to these instruments will be studied, both from a theoretical and a practical perspective.

7FFLA081

TRANSNATIONAL LAW: ACTORS, NORMS, PROCESSES – FOUNDATIONS AND PERSPECTIVES

20 CREDITS – HALF-YEAR MODULE (COMPULSORY MODULE)

Practicing lawyers are often confronted with the limitations of having to rely on precedent or legislation when advising clients in areas of 'new' law, or where court decisions and statutory regulations are not yet sufficiently available. While this might be due to the fact that the law – in a domestic setting – is only slowly awakening to a recently emerged regulatory problem, this governance lag is amplified in the context of transnational activities, where issues of sovereignty, jurisdiction and forum pose additional obstacles to the creation of effective legal regulation. Practically speaking, lawyers in such cases frequently resort to team work, to experts, stakeholders and other relevant parties 'on the ground', eventually shifting their strategy from litigation to a combination of legal consultancy, advocacy, coalition building and even public awareness building. This type of lawyering requires considerable flexibility, competences and resources, which are not readily available to every lawyer. From a theoretical perspective, the lawyer might find herself overwhelmed by what can be the technical, cognitive as well as the moral complexity of the case setting she is working on.

At the centre of the module is the shift away from training lawyers in learning and interpreting the law primarily through the study of jurisprudence (case law as in the common law tradition) or through the interpretation of statutory law (legislation – civil law tradition). Instead, students are invited to take on the perspective of the lawyer, advocate, activist who is involved in 'building' a case from a set of diverse, inchoate and constantly evolving facts and data. This reversal of perspective is a crucial element in confronting students as future practitioners with the real-world challenges of an effective 'access to justice'.

Assuming the position of legal practice and rights advocacy, students immerse themselves into a case from the 'bottom up' by identifying and negotiating the affected and involved interests, finding and navigating the applicable law, including – possibly – soft law, codes of conduct, social norms etc, and developing a legal interest representation strategy ('LIRS'). In contrast to giving legal advice to a client in a more or less confined and concrete legal question regarding, say, liability, entitlement, conviction or acquittal, the development of a LIRS might include a variety of avenues, including but not limited to designing a litigation or defence strategy, to the enhancing of legal and political rights, to engaging in coalition and public awareness building or to contributing to a sustainable stakeholder interest representation process.

7FFLA082

HUMAN RIGHTS IN WAR TIMES: ARMED CONFLICT, MILITARY OPERATIONS AND POST-CONFLICT JUSTICE

20 CREDITS – HALF-YEAR MODULE

The last twenty-five years have seen an increased involvement of Western states in military operations abroad, including peace-keeping missions, military action in the so-called 'war on terror' and several instances of 'humanitarian' or 'pro-democratic' intervention in various parts of the globe. In parallel, as a response to abuses committed during such operations and as a result of the calls for greater accountability by NGOs and civil society, domestic courts and international monitoring bodies have progressively provided greater scrutiny of the conduct of States engaged in military action abroad, an area traditionally thought to be mostly beyond the scope of judicial control. Over the past decade, domestic and international case law has progressively extended the scope of application of international human rights standards in order to ensure protection of individuals not taking part in the hostilities, combatants and 'enemy fighters', and, more recently, members of the armed forces vis-à-vis their national State.

The application of human rights standards in the context of armed conflict and related complex emergencies raises a number of challenging theoretical, moral and practical issues; the subject area is one of some complexity, located at the intersection of international human rights law, international humanitarian law, the jus ad bellum and United Nations law. It is an area which remains in a state of flux and is a particular target for strategic human rights litigation and advocacy activities by NGOs.

The module explores this increasingly important area of law and assesses the role and effectiveness of international human rights law instruments and mechanisms as instruments of protection in times of conflict. Part 1 of the module examines a range of 'threshold' questions, including the applicability of human rights law in times of war; the relationship of human rights law with international humanitarian law and other branches of international law, and the extraterritorial applicability of human rights treaties, Part 2 then examines, through the medium of case studies, the way in which selected human rights are applicable during armed conflict, and the remedies available post-conflict in order to ensure justice and adequate reparation for the victims of violations.

7FFLA083

SOCIOLOGY OF LAW, LEGAL CULTURE AND TRANSNATIONAL CHALLENGES

20 CREDITS – HALF-YEAR MODULE

Transnational legal studies map the emergence of new forms of law aimed at addressing a range of complex socio-economic and political trans-border problems. These problems have emerged against the backdrop of shifts in nation states' regulatory governance patterns wherein non-state actors play a crucial role by articulating social norms, policies and processes leading to the production of a densely plural legal field of which formal state law is only one, albeit significant, element. Socio-legal scholars engaged in the study of sociology of law, legal pluralism and legal cultures have long been preoccupied with the study of these aspects of the law within the domestic context. To elaborate, the sociology of law is the systematic, theoretically grounded, empirical study of law as embedded in society. Sociologists of law empirically examine and theorise the interaction between law, legal, non-legal institutions and social factors. Increasingly, sociologists of law also understand law sociologically so that they are not merely preoccupied with the study of law and society but of law in society. Areas of socio-legal inquiry include legal pluralism, the social development of legal institutions, forms of social control, legal regulation, the interaction between legal cultures, the social construction of legal issues, the 'law in the books' and the 'law in action',

7FFLA085

THE TRANSNATIONAL REGULATION OF GLOBAL NETWORKS

20 CREDITS – HALF-YEAR MODULE

The module addresses the challenges that have long been arising for national governments and international organizations in effectively regulating border-crossing activities. Taking a historical as well as conceptual perspective on both legitimate and criminal activities, we will study key areas of transnational networks and regimes in order to identify the scope as well as the limits of law in governing private transnational actors. By looking at examples of global networks drawn from the present and the past, e.g. diamond traders, merchants of the Northern Mediterranean Sea, mafias, and pirates in the early 18th century, it will become apparent how a traditional, state-based 'top-down' approach in legal regulation often proves insufficient.

The core reason for taking this historical-conceptual view is to critically investigate an ever faster developing reality of transnational private regulatory activity, ranging from food security to technical standards, from credit ratings to poverty levels, or from minimum capital requirements to educational standards. In view of the persisting 'democracy deficit' on the global level in such a wide range of hotly contested and sensitive regulatory areas, lawyers need to develop a better understanding of how transnational regimes operate, regulate and govern. For each of these global networks, the students will be asked to focus on the nature and content of the norms developed within these networks, as well as the processes through which these norms are enforced at a transnational level.

7FFLA086

INEQUALITY, HUMAN DEVELOPMENT AND THE RULE OF LAW IN TRANSNATIONAL PERSPECTIVE

20 CREDITS – HALF-YEAR MODULE

Our world has never been richer and has plenty of resources and technology to satisfy its whole population's basic needs. If equally distributed, the gross world product (GWP) of 2013 (\$87.25 trillion) would allow for each world citizen more than \$13,000 a year, that is, over 28 times the World Bank extreme poverty threshold of \$1.25 a day. The reality however, is that more than a billion people are still below that threshold, almost half of the world population is below the higher poverty threshold of \$2 a day, and more than 80% are below the vulnerability threshold of \$10 a day. This is in great part due to the model of regulation of economic development adopted in most parts of the world, and in the global system as a whole, which, as argued recently by French economist Thomas Picketty in his celebrated book 'Capital in the 21st Century', sustains an extremely unequal distribution of income and wealth.

What are the moral and legal implications of this state of affairs, in particular from the perspective of development and the rule of law? Is development simply economic growth, as measured by GDP? Can inequality and development coexist? Are inequality and poverty a violation of human rights? Can the rule of law survive in a highly inegalitarian environment? What, if anything, can/should law (and lawyers) do to fight poverty and inequality? What is the role of global law firms and of an increasingly transnational legal profession in these border-crossing processes of economic development, institutional, financial and legal assistance?

This module focuses on the very concrete legal, economic, political as well as ethical challenges that lawyers face when working in this context. The materials studied in the course - cutting-edge development scholarship, policy papers, economic, sociological and political analysis and reports from NGOs and international organisations - will enable the practicing lawyer or legal advisor in international law and development to understand and approach intricate development issues from a solid theoretical and empirical perspective. The engagement with these complex materials will always occur with concrete legal problems and policy challenges in view, allowing for a highly practice-relevant study of international law and development 'in context'.

The module will also introduce students to the short but rich history of the field of 'law and development' since its origins in the 1960s. This historical background is crucial for an understanding of the challenges the field is facing today. The module starts with an introduction to the debates on the concept of poverty and inequality, their measurement and an analysis of the most recent data. It turns then to the idea of development and the current challenges to the narrow definition of development and growth as merely economic. Drawing on the work of some of the world's most renowned economists and law & development experts, we will discuss the concept of human development and the contested concept of human rights, with a particular focus on both political and socio-economic rights, such as political participation, the right to health, education, housing and an adequate standard of living. The course then turns to an investigation of the intricate and very vividly discussed relationship between the idea of the rule of law and development, in the light of persisting global inequality. The module aims to engage with this evolving debate and also investigate current transnational legal efforts, especially in the field of human rights advocacy and litigation, to fight poverty and inequality. Special attention will be given here to the growing expertise and insights fast emerging from developing countries themselves on the impact of development efforts, including the judicialization of politics in many countries, in particular Latin America, South Africa and Asia, in the field of socio-economic policy.

7FFLA087

TRANSNATIONAL AND INTERNATIONAL CRIMINAL LAW

20 CREDITS – HALF-YEAR MODULE

Criminal law is no longer confined to dealing with crime within national borders. Genocide, crimes against humanity, war crimes and the crime of aggression carry individual responsibility under international law. Crimes such as human trafficking, piracy, drug trafficking and terrorism have cross-border effects leading to legal responses at regional and international levels. As a result domestic criminal law must increasingly take account of both international (state-to-state) and transnational (states-and-private-actors) responses to criminal activity. This module provides an in-depth understanding of international and transnational criminal law from institutional, substantive, and comparative perspectives.

7FFLA090

TRANSNATIONAL CORPORATE GOVERNANCE: THEORIES, PROBLEMS, APPLICATIONS

20 CREDITS – HALF-YEAR MODULE

With the globalization of corporate activity, capital movement and foreign direct investment, corporate governance has become a border-crossing concern and a contested field of debate on a global scale. At the same time, corporate governance rules and principles are increasingly being created and disseminated through a complex mixture of public, private, state and non-state based norm-making processes that involve different domestic, international and transnational actors. This module will study this fast-evolving regulatory landscape and provide students with a deeper understanding not only of the rules themselves but of the transnational political and economic conditions under which they are developing.

In the first part, the module will address different concepts of the corporation and of corporate governance from both a contemporary and historical perspective. The second part of the module will provide for a series of detailed studies of pressing issues in corporate governance regulation today by looking at both the 'hard' and the 'soft' law in these areas, including takeovers, hedge funds governance, rating agencies and corporate board composition.

The module exposes students to a variety of domestic, comparative and transnational bodies of law and norms and to a selection of cross-disciplinary debates that address the changing roles of corporate actors in a globalizing world. It is suitable for students interested in the transnationalization of corporate governance from both a practice perspective and a focus on the wider debates surrounding this lively regulatory field today.

King's LLM: Transnational Law modules

7FFLA091

BUSINESS AND HUMAN RIGHTS

20 CREDITS – HALF-YEAR MODULE

Media regularly report on the involvement of companies in human rights violations, for example, disasters in Bangladeshi clothing factories such as the collapse of the Rana Plaza factory in which over 1,000 employees died; suicides at the Chinese Foxconn company where mobile phone companies had their products manufactured, and FIFA being accused of corruption and the death of scores of workers building the stadiums for the 2022 World Cup in Qatar. This module includes various case studies of companies involved in human rights violations either through subsidiaries, business partners or the supply chain.

The existing legal framework to deal with these problems is limited and fragmented. In the US, the Alien Tort Statute provides a basis for litigation but in the Kiobel case, the US Supreme Court has substantially limited the Statute's scope. In Europe, particularly the UK and the Netherlands, companies are sued on the basis of domestic tort law, for example; Trafigura for waste dumping in Ivory Coast and Shell for polluting the Niger Delta. One of the questions addressed in this module, is what the future of US and European litigation is.

This module will also look into how the large gaps in the existing legal framework can be filled. So far, 'hard' law chiefly concentrates on companies' obligations to report about their human rights impact, while 'soft' law issued by international institutions (including the United Nations non-binding Framework and Guidelines and the OECD Guidelines) helps businesses to respect human rights. Moreover, governments nudge companies in the right direction in the context of trade missions, public procurement and export credit conditions. Companies also increasingly regulate each other, such as investors, pension funds, banks and insurers, investing in or financing business projects (and then, for example, applying the Equator principles). Finally, companies increasingly design their own Corporate Social Responsibility policies to ensure they respect human rights. This is a fast moving area of the law that is becoming of pivotal importance for companies, governments and human rights NGOs.

7FFLA093

MORALITY AND THE LAW: TRANSNATIONAL PERSPECTIVES

20 CREDITS – HALF-YEAR MODULE

This module investigates key moral dilemmas critical to understanding the interpretation of comparative constitutional law in the contemporary world. It does so through a critical examination of case law and four of Pedro Almodovar's controversial films, including Talk to Her, Tie Me Up Tie Me Down, Women on The Verge of a Nervous Breakdown and Bad Education.

7FFLA534

INTRODUCTION TO INTERNATIONAL DISPUTE RESOLUTION: MECHANISMS BETWEEN PRIVATE PARTIES

20 CREDITS – HALF-YEAR MODULE

This half-module, which students take together the half-module under mechanisms under international and European law, will be dedicated to mechanisms that are traditionally considered to be part of 'private' law. This will entail a review of the dispute resolution mechanisms that are used internationally in order to solve 'private' disputes, typically those arising in the business world: negotiation, mediation, arbitration and litigation. Focus will be placed on the use by international private actors of these different modes of dispute settlement. A comparative approach will be adopted with respect to international litigation in order to contrast differences and highlight common features.

7FFLA538

INTRODUCTION TO INTERNATIONAL DISPUTE RESOLUTION: MECHANISMS UNDER INTERNATIONAL AND EUROPEAN LAW

20 CREDITS – HALF-YEAR MODULE

A thorough knowledge of national laws and procedures is no longer sufficient to competently counsel clients in the globalised world of the XXIst Century. Practitioners need to be aware of the tools that international dispute resolution puts at their disposal. This class provides students with a basic knowledge of the law and mechanisms in the field.

In this half-module, which students take together with the half-module on mechanisms between private parties, students will learn about the 'public' side of international dispute resolution, comprising diplomatic means of dispute settlement and legal means, such as European Courts, the International Court of Justice, the International Tribunal for the Law of the Sea, the World Trade Organisation dispute settlement system and arbitration.

7FFLA553

INTRODUCCION TO TRANSNATIONAL LITIGATION

20 CREDITS – HALF-YEAR MODULE

This module tracks the process of transnational litigation from initiation to enforcement. It indirectly provides an introduction to the structure of, and the demand for, international arbitration. The angle of study will be comparative, with examples and cases drawn from common law and civil law systems, particularly the United States and France. Subjects such as jurisdiction, forum non conveniens, anti-suit injunctions, forum selection clauses and choice of law clauses will be investigated. Particular attention will be given to the procedural and substantive challenges raised by transnational litigation from a practical standpoint. The module will therefore seek to initiate students to the complexities of transnational litigation from a comparative standpoint.

7FFLA570

TRANSNATIONAL LAW AND TECHNOLOGICAL RISK GOVERNANCE: EXPERTISE, STANDARDS, LEGITIMATION

20 CREDITS – HALF-YEAR MODULE

Disputes about the desirability of promoting or forestalling new technologies invariably provoke debate about the need for regulation and the legitimacy of attempts to regulate technological development. These debates are, in essence, debates about how different, locally embedded societies, on the one hand, and the 'global community', on the other, seek to understand and manage technological risk. Although technological risk is typically associated with tangible harms understood in terms of harms to health and the environment, from a transnational perspective other collective harms that are associated with threats to cultural, political and moral norms and values that are often associated with contemporary technological innovation become equally visible. But because any assessment of both merits and dangers associated with such technologies is embedded in local values, however contested, pronounced or silenced, such assessments are always unstable. Hence attempts to identify, understand, and quantify these risks in order to devise a legitimate and effective legal and regulatory framework for 'managing' those risks is fraught with difficulty.

The emergence of 'new' technologies and the assessment of their merits as well as their risks are – inevitably – part of particular, contextualized and historically evolved traditions of societal evolution. As such, there is no objective or universal, even less a globally accepted consensus with regard to the up- or downsides of technological innovation. Instead, technological developments are deeply embedded in contested narratives of 'progress' and 'growth', narratives which are in part domestic and highly idiosyncratic while being also shaped by a range of border-crossing discourses including those around 'development' – in the past as in the present.

Hence it is through this combination of local and transnational dimensions that the proposed module will examine a number of key areas in technological innovation. By adopting a transnationalised perspective on technological innovation which investigates how technological and human progress, development and risk are perceived at a concrete, local level whilst being embedded and shaped by global and transnational forces and dynamics, students will ultimately obtain a richer, contextualised and more realistic understanding of the ways in which these ideas evolve over time and space. By adopting a pluralistic transnational understanding of debates about technological innovation, attending to the underlying political economy that drives particular technological innovations within a broader geopolitical context and increasing calls concerning the need effectively to tame these trajectories, we may acquire a better sense of the implications of technological for democracy, liberty, justice and human flourishing.

This module provides students with an opportunity to explore attempts to regulate new and emerging technologies at the transnational level through a series of spatialized case study explorations across a range of technological applications that feature in contemporary debates, with a view to critically interrogating whether, and to what extent, common themes and concerns can be discerned with a view to sketching the contours of an analytical framework that can illuminate both the challenges of regulating technology at the transnational level, and which might also serve to provide normative guidance.

7FFLA588

INFORMATION SOCIETY LAW

20 CREDITS – HALF-YEAR MODULE

The Information Age has transformed society. As mechanical systems powered by coal, steam and later oil and electricity gave us the Industrial Society, so now information and communication technologies (ICT) are giving us an Information Society – the society defining the 21st century.

To an extent, its law breaks down according to familiar technological systems – computers and networks. Cybercrime, specific kinds of intellectual property (e.g. open source software) and often overlooked but important technology-control regimes are thus investigated in a part of the course devoted to the computer. A part on networks in turn introduces general types of electronic communications network for regulatory purposes globally and then examines in particular the EU regulatory system applicable to network and service provision.

But there are further dimensions to Information Society Law. One is the administration of 'public good' resources needed for telecommunications, from internet addresses and telephone numbers to the radio frequencies used to carry information over mobile, satellite and other networks. This distinct, transnational 'resources' branch of law is today recognized as becoming ever more pivotal, as society becomes more and more dependent on the resources concerned and their management.

The relationship between the Digital State and Citizen intertwines issues of technology, security and liberty. How power and interests play out in this basic relationship will affect us all into the future. The student in this part of the course will also explore a third point in what has become a societal triangle: the role of corporations that control access to services and use of data. Some of today's keenest legal debate revolves around this triangle's themes and we will bring it into the classroom.

Finally, we will probe into key legal challenges raised by expanding new areas such as robotics, geoinformation, cloud computing and 'Big Data'. And students will uncover fundamental information society drivers that 'regulate' our world no less than – indeed, more profoundly than – many laws students are usually exposed to. It is vital for the student to understand the changing nature of law-making that such drivers entail; this will be an emphasis across the course's teaching.

7FFLA602

TRANSNATIONAL BANK RESOLUTION

20 CREDITS – HALF-YEAR MODULE

As of 1 January 2016, the European Single Resolution Mechanism (SRM) is fully operational. The complete range of bank resolution tools and powers, as envisaged under the Bank Recovery and Resolution Directive (BRRD), is now available to the EU Single Resolution Board (SRB) and to national resolution authorities. As the international post-Crisis regulatory reform project nears conclusion, implementation takes center stage, with a multitude of details still in the process of being fleshed out by international standard setters and regulatory authorities. This module provides a comprehensive and systematic analysis and assessment of the EU legal framework and its implementation in selected Member States. The legal regimes applicable in the United States serve as a comparative reference point throughout. Based on a solid theoretical framework, the module analyses the structure of banking sectors in Europe and the US, as well as the prevalent business models and corporate structures within the respective financial industries. These structures determine the most effective resolution strategies to be applied to cross-border banking groups. Against this background, the module covers the recovery and resolution-planning phase, early intervention, and the application of resolution tools and powers, as well as the latter's interaction with standard corporate insolvency law as applied to financial institutions. At a time when the level of debt, in particular in emerging market economies, has again reached unsustainable levels and several commentators predict the next global financial meltdown, resolution and insolvency of banks and financial institutions is likely to remain a topical issue for years to come.

7FFLA604

CORPORATE ACTORS IN TRANSNATIONAL SUSTAINABILITY GOVERNANCE

20 CREDITS – HALF-YEAR MODULE

The imperative to move to a low-carbon economy and more sustainable existence calls for the most significant market and economic transition in modern history. It requires multi-sectoral mobilisation, beyond nation states and international law. Specifically, it invokes action by corporate actors not only as regulated entities but also as quasi-regulators; a sector that includes private finance actors – banks, insurers, institutional investors – and consideration of their increasingly important role in an evolving transnational ‘sustainability’ governance framework. Yet, since the recent global financial crisis, their role in society and the notion of ‘value’ has been contested. Are these actors ready and able to self-regulate for economic and also societal benefit? How do they contribute to systemic sustainability issues – for better or for worse? What are their motivations and capabilities that might be harnessed by government regulators and civil society? What are the legal, institutional and behavioural limits to doing so?

The course will consider regulatory and governance frameworks that apply to ‘borderless’ sustainability problems such as climate change and biodiversity depletion. These include selective governmental responses as well as corporate soft law initiatives such as the UN Principles of Responsible Investment (for investors) and the Equator Principles (for banks).

The theoretical component of the course comprises two waves. The first wave, which we investigate at the front-end of the course, focuses on constructivist legal theory and ethics in international relations to elucidate shared understandings and also challenges associated with governance frameworks for sustainable development. The second wave focuses on regulatory theory using corporations, with particular focus on private finance actors, as the subject of investigation to identify and evaluate motivations for private ‘green’ governance. This wave is conceptualised using micro (intra-organisational), meso (inter-organisational) and macro (socio-cultural) lenses to provide theoretical insights about the internal and external influences on corporate behaviour.

The intellectual challenge for LLM students will be to think about different public and private regulatory approaches and how to critique them in the context of complex sustainability issues like climate change. The global and comparative aspect of the course should also provide a platform for students from different legal systems to share their knowledge and experiences concerning the governance of environmental problems and climate change in particular. Moreover, this module provides students with an opportunity to critically interrogate whether, and to what extent, common themes can be discerned from corporate interaction with sustainability issues in order to re-imagine a framework that appreciates the challenges of transnational regulation while also providing normative guidance.

Syllabus components:

- Constructivist legal theory and sustainable governance: from independent to interdependent thinking using biodiversity and climate change as case studies.
- Investigating the systemic link between financial stability and environmental sustainability.
- Understanding why companies go green: comparative regulatory theory approaches.
- Private finance actors in sustainable governance: theory and empirical evidence.
- Corporate law and sustainability: levers and limits.
- Voluntary corporate behaviour (including corporate social responsibility): levers and limits
- Market-based policy instruments as regulatory responses to climate change.

7FFLA606

TRANSNATIONAL PROPERTY LAW

20 CREDITS – HALF-YEAR MODULE

This course traces the idea of 'transnational property' in legal thought and practice. While the concept of 'transnational property' appears to be of recent emergence, this course takes seriously the idea that the constellation of actors, norms, and processes that inform current debates over various instances of cross-border claims to property – including foreign investment in real estate, control of natural resources, and investor-state dispute settlement (ISDS) - have a much longer lineage in legal and political-economic thought - and much richer relations to each other - than is often acknowledged.

Through this course, students are meant to gain an appreciation for the larger patterns and questions that frame current debates that surround transnational legal concerns regarding, *inter alia* the power of multi-nationals and investors, sovereignty of states over their own natural resources, and increasing inequality within populations, in the context of fundamental clashes of values that have animated property law, theory, and practice through history. It does this by exploring how dominant ideas in property emerged in various historically-contingent circumstances, and then were exported and adapted through time and place through colonial, development, and international political, legal, and investment encounters. While property regimes are often seen within purely domestic spheres, this history of ideas and practices and this study of current concerns illustrate the complexity and transnational nature of border-crossing claims of ownership and entitlement by both foreign states and private entities with (often hidden) state support.

7FFLA608

LAW AND PRACTISE OF THE UNITED NATIONS: EDGING TOWARDS TRANSNATIONAL CONSTITUTIONALISM?

20 CREDITS – HALF-YEAR MODULE

'The Law and Practice of the United Nations: Edging towards Transnational Constitutionalism?' is an advanced course on the United Nations, which locates the UN and system of specialized agencies in the context of an evolving international constitutional order. It aims to provoke thinking about the legal foundations on which the United Nations is built as well as to familiarize students with the law and practice of the UN. The course will also address some of the systemic and strategic challenges faced by the UN in the evolving international legal system. It will reflect on whether the United Nations is fit to face the challenges of the next 70 years in a rapidly changing transnational world.

The main themes of the course would be the following:

- The origins and institutional structure and character of the United Nations;
- The UN System, including the specialized agencies, and aspects of international constitutionalism;
- Membership and participation in the work of the United Nations;
- The work of the UN Secretariat and the Office of Legal Affairs;
- The Permanent Missions to the UN;
- The work of the General Assembly;
- The work of the Security Council;
- The drafting and interpretation of Security Council resolutions;
- The UN's counter-terrorism agenda;
- The UN human rights system;
- UN reform;
- The language of UN diplomacy;
- The UN System: Edging Towards Transnational Constitutionalism?

7FFLAG10

TRANSNATIONAL HUMAN RIGHTS LITIGATION

20 CREDITS – HALF-YEAR MODULE

Modern transnational human rights litigation cuts across traditional distinctions between jurisdictions and between national, European and international sources of the law and presents a number of challenges, pitfalls and opportunities to the practitioner. Strategic litigation of human rights violations plays a crucial role not only in ensuring that victims of human rights abuses obtain redress for the harm they have suffered, but also in ensuring that governments are held accountable for their actions and that the 'right to the truth' of victims and society at large is effectively realised. The class will present students with case studies, including cases as diverse as the 'war on terror', human rights claims arising out of conflicts in Chechnya and Iraq, constitutional challenges to the criminalisation of homosexual conduct, and challenges to criminalization of human rights defenders in Latin America. Students will study how these cases were litigated and why they were litigated in a particular way, developing an understanding of the practical aspects of transnational human rights litigation.

The module will draw on the experience of the instructors, who are, respectively, a leading human rights barrister with extensive experience of litigating international human rights cases in a variety of fora, and an academic specialising in international human rights law who has extensive practical experience in assisting human rights NGOs in strategic human rights litigation.

7SSWM050

POLITICAL PHILOSOPHY AND INTERNATIONAL LAW

20 CREDITS – HALF-YEAR MODULE

This course aims to offer students the opportunity to read, or re-read, key texts from classics in Western political thought that have shaped thinking about the international order. It does not purport to offer an exhaustive overview of the subject, but rather to examine certain ideas and arguments in depth. The course is particularly suited to students interested in normative argument about international law and international relations who feel their knowledge of classics is somewhat limited. A background in international law or legal and political philosophy is not a prerequisite.



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