



Transnational Law Institute

The Dickson Poon School of Law | King's College London

The LL.M. in Transnational Law

2018-2019

Pathway Convener: Dr. Octavio Ferraz
Co-Director, Transnational Law Institute





Transnational Law Institute
The Dickson Poon School of Law | King's College London

The King's LL.M. in Transnational Law

THE TRANSNATIONAL LAW LL.M. PATHWAY was inaugurated in 2014 and introduced an entirely new concept of preparing future lawyers for a transformed and transformative legal practice. The transnational law LL.M. modules at The Dickson Poon School of Law cut across the divides between public and private law and cover not only core areas in domestic and international law, but include newly emerging fields of legal doctrine and practice as well. With an emphasis on training future graduates to effectively navigate and operate with 'law in action', the pathway also sensibilises students to recognize their own role in bringing about legal change, law reform and developing policy arguments. Covering a wide range of legal fields, the modules engage with the newly emerging and complex constellations of ACTORS, NORMS & PROCESSES that make up the new transnational legal landscape. A unique feature of the King's LL.M. in Transnational Law is the emphasis the instructors, many of whom are also practicing lawyers as well as involved in legal advocacy and activism, place on using concrete and timely case study exercises to illustrate the practical relevancy of critical thinking and legal innovation in the concrete context of today's legal battles.

In a dramatically changed, global context, 'transnational lawyering' takes place across vast distances, time-zones but also socio-economic, cultural and religious boundaries. A typical 'transnational case' does not arise in an empty and abstract space, but is characterized by its very local, concrete occurrence, on the one hand, and its diverse set of affected stakeholders, interests and actors, on the other. "Transnational law" emerges as a framework through which the local and international, the legal and non-legal dimensions of cases can be identified and addressed – not only in search of an effective legal strategy but in the hope of gaining a better understanding of the promise – and, the limits – of law.

Now, in its 5th year, the Transnational Law LL.M. is the fastest-growing and most sought-after programme of its kind in the city of London and far beyond the UK's borders. It offers an unparalleled opportunity to combine rigorous and cutting-edge legal and interdisciplinary research with a practice-driven and practice-oriented search for a better, more inclusive and more effective mobilisation of law.

The Transnational Law LL.M. is housed under the roof of the Transnational Law Institute, a world-renowned research and teaching centre for global collaboration. Students on the LL.M. can participate and attend TLI events, assist with research projects at the Institute and apply for student positions on the editorial board of the quarterly, peer-reviewed law journal, "Transnational Legal Theory". Peer Zumbansen, Founding Convener, Transnational Law LL.M., Sept. 2018

The LL.M. in Transnational Law

2018-2019

Taught, Research & Practice Modules

AUTUMN & SPRING

MODULE 1: Human Rights Law: International and Transnational Perspectives

Instructors: Octavio Ferraz & Eva Pils
MODE OF OFFERING: 2 terms / 40 credits
Cross-listed to International Dispute Resolution

This module provides a foundation in international and transnational human rights law. Through a combination of seminal texts, case studies, and practical legal drafting assignments, we cover the core of human rights protected under international law, including civil and political as well as social and economic rights; current debates about human rights' contested status and their applicability beyond the national state; and human rights advocates' uses of international law and alternative strategies. At the end of this module, you will have acquired a critical understanding of the principles of international human rights law and of the national, international and transnational actors, norms and processes in the protection of human rights on a global scale today

MODULE 2: Contesting Globalisation: Old and New Theories in Transnational Law & Global Governance

Instructor: Peer Zumbansen
MODE OF OFFERING: 2 terms / 40 credits
Module Not Offered 2018-2019

The 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 seminal as well as 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. The module will be offered in conjunction with the monthly "Transnational Law Reading Laboratory" (1 book assigned per month, students in the module are given one extra week reading time, during which the module pauses).

MODULE 3: Law and Society in China

Instructor: Eva Pils

MODE OF OFFERING: 2 terms / 40 credits

This full-year module provides an introduction to law and society in the People's Republic of China, with particular attention to the re-emergence of law in the post-Mao era. In the first term we will address major legal institutions and principles such as the court system, the legal profession, the *xinfang* or 'petitioning' system, and the interaction between the law and the media. In the second term we discuss selected issues in criminal justice; law and socio-economic development; and human rights advocacy and public interest law. The module aims at a critical understanding of how law operates in Chinese society and how particular historical, social, economic and political factors affect the law in China today. It will give you a foundation for future engagement with Chinese law and society in various professional roles, including academic research and legal practice.

MODULE 4: International Law and War

Convenor: Maria Varaki

Instructors: Guglielmo Verdirame

MODE OF OFFERING: 2 terms / 40 credits

Cross-listed from Department of War Studies

This module will cover both international law on the use of force (*jus ad bellum*), international law governing the conduct of warfare (*jus in bello*) and introduce students to international criminal law and the post bellum current developments.

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. The

relationship with other sub fields of public international law such as human rights and refugee law will also be examined.

2018-19 AUTUMN

MODULE 5: Transnational Law: Actors, Norms, Processes – Foundations & Perspectives

Instructors: Peer Zumbansen (with Farnush Ghadery, Laura Knöpfel)

MODE OF OFFERING: 1 term / 20 credits
(2018-19 autumn term)

This module is the core course for the *Transnational Law LL.M Pathway*. The course focuses on the Actors, Norms, Processes, and values at stake in transnational law. It discusses the various approaches to defining transnational law as a distinct field of law versus a methodological critique of law in a global context. Each session provides an opportunity to explore legal solutions to complex, border-crossing problems. It engages students in a series of present-day, case-studies taken out of legal practice in a wide range of legal areas to illustrate the degree to which established legal fields, that would normally be associated with domestic law and governmental rule-making, have begun to change under the influence of hybrid, public-private norm creation or the rise of non-state actors such as non-governmental organisations as well as multinational corporations.

MODULE 6: International Refugee Law

Instructor: Satvinder Juss

MODE OF OFFERING: 1 term / 20 credits
(2018-19 autumn term)

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. The module will show that all major human rights violations affect refugees and determine their numbers world-wide and that each of these issues requires transnational solutions and will be considered in this module.

MODULE 7: Transnational and International Criminal Law

Instructor: Ioannis Kalpouzos

MODE OF OFFERING: 1 term / 20 credits
(2018-19 autumn term)

Cross-listed to the Department of War Studies

This module provides an in-depth understanding of international and transnational criminal law from *institutional, substantive and comparative* perspectives. 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 trans-

national (states-and-private-actors) responses to criminal activity

MODULE 8: Transnational Regulation of Global Networks

Instructor: Florian Grisel

MODE OF OFFERING: 1 term / 20 credits
(2018-19 autumn term)

The module addresses the challenges that have long been arising for national governments and international organizations in effectively regulating border-crossing activities. By taking a historical as well as conceptual perspective on both legitimate and criminal activities, key areas of transnational networks and regimes will be studied 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.

MODULE 9: Transnational Law and Technological Risk Governance: Expertise, Standards, Legitimation

Instructors:

MODE OF OFFERING: 1 term / 20 credits
Module Not Offered 2018-19

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* various technological applications that feature in contemporary debates. Students will critically examine how law

and other forms of regulatory governance have developed to grapple with the perceived social, political, regulatory and ethical challenges posed by technological development, and to reflect upon the role of lawyers as custodians of legal, democratic and ethical values in these contexts

MODULE 10: Transnational Property Law

Instructor: Priya S. Gupta

MODE OF OFFERING: 1 term / 20 credits

Module Not Offered 2018-19

This course traces the idea of 'transnational property' in legal thought and practice. While the concept of 'transnational property' has recently become widely discussed, this course begins by tracing the historical roots of 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). Students will study 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.

MODULE 11: Introduction to International Dispute Resolution - Mechanisms between Private Parties

Instructor: Florian Grisel; Guest lecturer: Martin Hunter

MODE OF OFFERING: 1 term / 20 credits
(2018-19 spring term)

Cross-listed from International Dispute Resolution

This module 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. A focus will be placed on the use of these different modes of dispute settlement by international private actors. A comparative approach will be adopted with respect to international litigation in order to contrast differences and highlight common features.

MODULE 12: International Dispute Resolution: Mechanisms under International and EU Law

Instructor: Piero Sullo

MODE OF OFFERING: 1 term / 20 credits
(2018-19 autumn term)

Cross-listed from International Dispute Resolution

This half module provides students with a basic knowledge of the law and mechanisms in the field of international dispute resolution. In this class, they will learn about the "public" side of international dispute resolution, comprising diplomatic means of dispute settlement and legal means, such as the Court of Justice of the EU, the International Court of Justice, the International Tribunal for the Law of the Sea, the World Trade Organisation dispute settlement system and arbitration.

MODULE 13: Human Rights in War Times: Armed Conflict, Military Operations and Post-Conflict Justice

Instructor: Silvia Borelli

MODE OF OFFERING: 1 term / 20 credits
(2018-19 autumn term)
Cross-listed to the Department of War Studies

The module, which is taught in seminar format, examines the growing role that international human rights law has come to play in providing protection for individuals in times of armed conflict and military action abroad. The module provides an in-depth study of the specific issues which arise, including the extraterritorial application of States' human rights obligations, the inter-relationship with international humanitarian law and other rules of international law, and the manner in which human rights are protected in times of war and military occupation.

MODULE 14: Political Philosophy and International Law

Instructors: John Tasioulas, Guglielmo Verdirame & Leif Wenar

MODE OF OFFERING: 1 term / 20 credits
(2018-19 autumn term)
Cross-listed from Department of War Studies

This course will offer students the opportunity to engage with philosophical arguments about international law. The curriculum will combine a text-based approach focused on the study of both classical thinkers in the Western tradition, and a more problem-based approach that draws on the most important contemporary writings by legal and political philosophers. The course is

particularly suited to students interested in normative argument about the international order. The three main themes that will run through the course are sovereignty, international institutions and human rights.

MODULE 15: Transnational Legal Feminism

Instructors: Farnush Ghadery & Laura Knöpfel (with Peer Zumbansen)

MODE OF OFFERING: 1 term / 20 credits
(2018-19 autumn term)

This module will introduce students to feminist legal theory and particularly to transnational legal feminism as an emerging strand of this scholarship. It will discuss how international norms of women's rights evolved and shaped imaginaries about gender in today's societies. This global feminist perspective will be brought into question with a focus on women's different experiences of gender and sexuality depending upon their social, cultural, political and economic context. In particular, the course introduces students to differences between international/global feminism and transnational legal feminism, with a special emphasis on the perspectives from the Global North and South. By widening the net to go beyond mainstream feminism and challenging Western hegemonic feminist theories, this module discusses feminist theories arising from varying localities and cultures around the world, including post-colonial feminism and Islamic feminism.

MODULE 16: Global Climate Change Law

Instructor: Leslie-Ann Duvic-Paoli **MODE OF OFFERING:** 1 term / 20 credits (2018-19 autumn term)
Cross-listed to International Dispute Resolution

Climate change is one of the most significant challenges of our time and has been described as a 'wicked problem' due to its multi-dimensional and socially-complex nature. Taught as a seminar with occasional guest lecturers, the module introduces students to the instruments, processes and actors of the law of climate change with a global focus. It includes a detailed examination of international climate law, with a particular focus on the 2015 Paris Agreement. The complexity of the challenge also requires that other legal regimes such as human rights frameworks, as well as other entities such as cities and corporate actors, make decisive contributions towards a low-carbon economy. Accordingly, this module also explores the legal and regulatory efforts of non-state actors in addressing climate change, including the increasing importance of courts. Overall, this module seeks to enable students to develop a critical understanding of the polycentric and multi-level nature of climate law.

MODULE 17: The Law and Practice of the United Nations: Edging Towards Transnational Constitutionalism?

Instructor: Ady Schonmann-Bethlehem
MODE OF OFFERING: 1 term / 20 credits (2018-19 autumn term) **This module is also cross listed and open to students from the Department of War Studies**

The Law and Practice of the United Nations: Edging towards Transnational Constitutionalism? aims to provoke thinking about the legal foundations on which the United Nations is built - primarily its origins, conceptual and institutional structure and competence - and to familiarize students with the evolving practice at the United Nations. It locates the United Nations and the system of specialized agencies in the context of an evolving international constitutional order. The course will also address some of the systemic and strategic challenges faced by the United Nations 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 first part of the course will address, by way of introduction, the origins of the United Nations, its conceptual and institutional structure, and competence. It will also consider the influence of the membership on the work of the General Assembly and the Security Council, as well as the work of the UN Secretariat and the Permanent Missions to the UN. The second part of the course will delve into some of the acute present-day issues in the workings of the UN.

The course aims to facilitate an understanding of both the theory and practice of the United Nations and should appeal to those who have an interest in working in this field, whether as academics or as practitioners. For those interested in furthering their knowledge of the United Nations following this module, there would be an opportunity to do so through the spring semester module on The United Nations Collective Security System: When Theory Meets Practice (7FFLA615). Each of these modules is self-standing but would also fit well together.

2018-19 SPRING

MODULE 18: Corporate Actors and Sustainable Governance

Instructor: Megan Bowman
MODE OF OFFERING: 1 term / 20 credits (2018-2019 spring term)
Cross-listed in International Business and Transnational Law

The imperative to move to a sustainable and low-carbon economy calls for the most significant market and economic transition in modern history. Thus, it invokes action by corporate actors not only as regulated entities but also as quasi-regulators. The corporate sector includes private finance actors – banks, insurers, institutional investors – with focus on their increasingly important role in an evolving transnational 'sustainability' governance framework. Utilising constructivist and regulatory legal theories as well as international ethics, this module provides students with an opportunity to critically interrogate whether, and to what extent, common themes can be discerned from corporate - and particularly financial - interaction with sustainability issues such as climate change and biodiversity depletion.

MODULE 19: Sociology of Law, Legal Culture and Transnational Challenges

Instructors: Florian Grisel & David Nelken

MODE OF OFFERING: 1 term / 20 credits
(2018-19 autumn term)

Sociology of law offers crucial tools for studying 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. The aim of this class is to provide students with legal and social science conceptual tools and empirical examples so as to equip them for understanding the role of law in responding to transnational social challenges and doing research into transnational legal fields. Taught over one term as a seminar with occasional guest lecturers, Sociology of Law, Legal Culture & Transnational Challenges will draw on a rich body of inter-disciplinary legal scholarship and apply the insights of canonical texts in sociology of law, legal pluralism and the study of legal cultures to illuminate key aspects of legal ordering, transnational law and specific transnational legal issues.

MODULE 20: Inequality, Human Development and the Rule of Law in Transnational Perspective

Instructor: Octavio Ferraz

MODE OF OFFERING: 1 term / 20 credits
Module Not Offered 2018-19

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 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.

MODULE 21: Transnational Corporate Governance: Theories, Problems, Applications I

Instructor: Dionysia Katelouzou

MODE OF OFFERING: 1 term / 20 credits
(2018-19 spring term)

Cross-listed to European Law and International Business Law

This module examines the fast-evolving and largely fragmented regulatory landscape of corporate law and corporate governance. Through a series of case studies, it offers students a deep understanding not only of the relevant rules themselves but of the transnational political and economic conditions under which they are developing. 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 law and 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. The aim of the module is to contribute to the understanding of transnational corporate governance by introducing students to the relevant law and regulatory regimes governing corporations in a transnational context. Students will be trained in both law and the socio-economic and political structures that shape the development of corporate governance rules today.

MODULE 22: Business and Human Rights

Instructor Cees Van Dam

MODE OF OFFERING: 1 term / 20 credits
(2018-19 spring term)

This module examines the swiftly increasing accountability of companies for their involvement in human rights violations abroad, such as through their subsidiaries or their supply chain. This includes human rights issues such as child labour, unsafe working conditions (eg the Rana Plaza disaster in Bangladesh), and environmental damage (eg oil pollution in Nigeria). The module examines the various ways in which accountability is increasing: by hard law (regulation) and litigation against companies, by soft law instruments, by self-regulation, by governmental policies, and by banks and investors intensifying the scrutiny of companies' human rights policies and practices. The module will also examine how the various forms of accountability interact with each other, how this leads to changes in the way companies operate to enhance human rights protection and how lawyers need to change in order to play an active role in this process.

MODULE 23: 'Hard Cases' and Regulatory Challenges: Advanced and Clinical Transnational Law Seminar

Convenors: Peer Zumbansen, Gearóid O'Cuinn & Ioannis Kalpouzos

MODE OF OFFERING: Research Module 40 credits (2018-19 spring term).

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. 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). 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, which can be understood as a crucial element in confronting students as future practitioners with the real-world challenges of effective access to justice. Students will work on a real case file in connection with the non-profit advocacy NGO, "GLAN" – Global Legal Action Network. The module is a very unique opportunity to learn the art of transnational lawyering from the ground up.

MODULE 24: Transnational Corporate Restructuring

Instructor: Michael Schillig

MODE OF OFFERING: 1 term / 20 credits
(2018-19 spring term)

Cross-listed to International Finance Law and International Business Law

Modern business structures are rarely confined to a single jurisdiction. The successful restructuring of a business in financial distress requires the flexible and innovative utilization of corporate law, corporate insolvency law and corporate finance mechanisms offered by a multitude of jurisdictions and on the basis of international instruments. The module seeks to identify and to critically analyse the emerging patterns in global restructuring practice from a transnational perspective.

MODULE 25: The United Nations Collective Security System: When Theory Meets Practice

Instructor: Ady Schonmann-Bethlehem

MODE OF OFFERING: 1 term / 20 credits
(2018-19 spring term) **This module is also cross listed and open to students from the Department of War Studies.**

The United Nations collective security system is at the centre of contemporary diplomatic, political and legal discourse. It is at the heart of the evolving discussion about the competence of the United Nations, with the role of the Security Council at the centre of the debate. There is hardly any issue today that cannot be woven into the framework of the UN collective security system, from climate change to health pandemics, from human rights and counter-terrorism to piracy and the rule of law, from peacekeeping to peace building, and international criminal justice. The Security Council is at the centre of an evolutionary, sometimes revolutionary, process of the reconstruction of the reach of the UN. This endeavour has permeated the UN system, including the work of the General Assembly, the UN specialized agencies, and beyond. It has been the driver behind the emergence of new concepts such as human security and the responsibility to protect, which walk a delicate line between law and politics.

This module will focus on deconstructing the law and policy divide at the UN. It will introduce students to the changing collective security system of the UN, looking at both law and practice. Amongst other issues, the course will examine the balance between the primary responsibility of the Security Council for the maintenance of international peace and security and the role of other UN organs; collective security challenges; the concept of human security in the work of the UN General Assembly; the evolution of UN peace and security objectives and the challenges that these pose; the Security Council sanctions regimes, including counter terrorism; and, the responsibility and accountability of the UN.

The module complements the autumn term King's Transnational Law Institute module on The Law and Practice of the United Nations: Edging Towards Transnational Constitutionalism? (7FFLA608). Each of these modules is self-standing but would also fit well together.

MODULE 26: Transnational Human Rights Litigation

Instructor: Silvia Borelli and Tim Otty

MODE OF OFFERING: 1 term / 20 credits
(2018-19 spring term)

Cross-listed from International Dispute Resolution

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 human rights litigation plays a crucial role in ensuring not only that victims of human rights abuses obtain redress, but also 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 module will present case studies 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 criminalisation 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.

MODULE 27: Environmental Law: Current Challenges

Instructor: Leslie-Ann Duvic-Paoli

Mode of offering: 1 term / 20 credits
(2018-19 spring term)

The impact of humans on our planet has been so profound that we are now said to live in a new geological epoch characterised by global

environmental change and degradation: the Anthropocene. The need for skilled lawyers who critically understand the role of law in responding to environmental problems is becoming increasingly important. The module provides a forum to interrogate recent developments in international, European and transnational environmental law. We reflect on topics such as legal responses to new risks and emerging technologies, the role of law in the transition to a low-carbon economy, and the interactions between environmental objectives, human rights and trade liberalisation. The module is taught by a variety of academics and practitioners, hence providing students with an invaluable exposition to different approaches to environmental law.

MODULE 28: Transnational Oceans and Maritime Law

Instructor: Penelope Nevill

Mode of offering: 2018-19 spring term

(Re)integrating and reframing public international law of the sea and maritime commercial law to better understand how the law governing our seas and oceans works in practice and meet contemporary challenges. The world’s seas and oceans make up 71 percent of the earth’s surface and contain 97 percent of its water. They act as a ‘carbon sink’ for around 90% of the world’s carbon emissions and play a key in climate change. They are used as both global rubbish bin and essential food source (fish account for 17% of the world’s protein intake). Around 80 per cent of international trade in goods is carried by sea; the percentage is even higher for most developing countries. They are also, in the words of former UN Secretary-General Ban Ki Moon, ‘in peril’. Typically, public international law of the sea and commercial maritime law are taught

separately. This course aims to bring them together around four key substantive topics (shipping, law and order, exploitation of resources and the environment) to explain what they are, how they relate to each other across international, regional and national laws and legal systems, who the actors are, the different types of law-making and how they are being transformed by, and evolving in response to, new challenges and technology.

MODULE 29: Law without the State

Instructor: Thomas Schultz

Mode of offering: 1 term / 20 credits (2018-19 spring term)

Most lawyers, indeed most people, think that law is necessarily something created by states. National law is created by one nation-state, international law by several. But why? Why do we think of law as a creation of states? Can we disconnect law from states? Would this be a good idea? Does it matter that law is anything specific? Non-state actors, generally speaking, have become stronger in creating or pushing for norms. Does this – should this – mean that law, the very idea of law, will change? At some stage in the past, there weren't any states, but surely there was law. If something similar were to happen again, what would we be calling law? Nothing at all? Just anything? When lawyers describe the law in a given field, they normally focus on legislation and cases, on state and administrative practice, on treaties and other forms of state activity. This works in practice for most people and most situations. But is it quite correct intellectually? This module is a theoretical course based on critical thinking, dealing with the question of what law is and why, focusing on the relation between law and state. It offers

a discussion of abstract analytical questions underpinning and structuring real-world examinations such as the politics or sociology of current global law-making or the role of the state in the global normative arrangements. At the end of the course, students are expected to have a sound understanding of the role of law in society, and a clearer view of the stakes and determinants of what counts as law.

MODULE 30: The Law and Practice of Modern Slavery

Instructor: Parosha Chandran

Mode of offering: 1 term/20 credits (2018-19 spring term)

This module will cover the domestic, regional and international legal frameworks for the protection against trafficking, slavery, servitude and forced labour (the umbrella term for these being 'modern slavery'). It will consider the need for States to prosecute perpetrators to protect victims and to prevent modern slavery in all its forms as being keys to combat slavery in today's world. Not only will the module involve the study of relevant treaties and conventions, but it will also include a critical consideration of the development of modern slavery caselaw emanating from domestic and international courts and tribunals. The module will also give students a detailed insight into, and initiate discussion on, the ground-breaking cases and the scholarly work that the module leader, an award winning practicing barrister, has been involved in and which have set critical precedents leading to the development of law and policy on trafficking and modern slavery in the UK and abroad. The module will further cover leading cases emanating from the English legal system as well as ECtHR, the ICTY, ICC and other regional

systems, such as the ECOWAS system in Western Africa (e.g. the Hadijatou slavery case). It will also highlight international legal guidance on trafficking, from the UN amongst others, and include discussion on modern slavery in supply chains and the need for transparency provisions. The module will encourage students to identify gaps in the law that need to be bridged and will provide students with a unique opportunity to enhance their written and oral advocacy through the lens of the law on modern slavery.

MODULE 31: Information Society Law

Instructor: Kevin Madders

MODE OF OFFERING: 1 term / 20 credits
(2018-19 autumn term)

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 are giving us an Information Society (IS) – the society defining the 21st century. To an extent, IS 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 section of this module, devoted to the computer. A section on networks, in turn, introduces types of electronic communications network for regulatory purposes globally and then examines, in particular, the EU regulatory system applicable to network and service provision. The module analyses further dimensions of IS 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 module further examines the relationship between the Digital State and its Citizen with its intertwining issues of technology, security and liberty and the role of corporations that control access to services and use of data. How power and interests play out in this basic relationship will affect us all into the future. In a final part of the course, we will probe into key legal challenges raised by expanding new areas such as robotics, geoinformation, cloud computing and “Big Data”.

MODULE 32: Law, Artificial Intelligence and Society

Instructor: Christopher Markou

Mode of offering: 1 term / 20 credits
(2018-19 spring term)

Advances in Artificial Intelligence (AI) will be among the primary catalysts of social, economic, scientific, political and legal change in the 21st century. Discussions of AI regulation have gathered force in the wake of notable performance leaps in machine learning, particularly in the domains of computer vision, natural language processing and neural networks. Given the transformative and highly lucrative potential of AI, there are concerns about how far the law can and should adapt to the profound technological changes facing society. If legal adaptation is too slow, technological change can threaten rights, stifle innovation, or potentially catalyse public, environmental and existential risks. If, however, technological change is too fast or ill-conceived, it might be ineffectual, disrupt societal expectations, and

undermine the rule of law or the public trust essential to a data-driven government. This highly interdisciplinary module will critically examine the relationship between law and technological change, the history of AI research, its key philosophical issues and themes, the legal, political, economic and ethical questions that underpin the current debate and forecast future challenges. Topics covered will include: algorithmic transparency and discrimination, automation and the 'Future of Work', legal personality for artificial agents, AI ethics, among others. Each topic will be introduced with a lecture followed by student presentations that will serve as the basis for in-class discussion and debate. While the module will also survey the current state of AI research and its societal impact, the narrative it intends to develop ultimately turns on the idea of the rule of law being displaced or eroded by a 'rule of technology'. The students will confront what it means if the legal system, and society more generally, becomes an elaborate algorithmically intermediated system, and whether such a system would bear any relation to the legal system we have known, or if it would, in any sense, be preferable to it.

Module 33: International Tax Law

Instructor: Jonathan Schwarz, Tom Wesel

Mode of Offering: To Be Confirmed

MODULE 34: Transnational and Comparative Corporate Law and Corporate Governance II

Instructor: Dionysia Katelouzou

Mode of offering: 1 term/ 20 credits

Module Not Offered 2018-19

MODULE 35: Introduction to Transnational Litigation

Instructor: Florian Grisel

MODE OF OFFERING: 1 term / 20 credits
(2018-19 autumn term)

Module Not Offered 2018-19

+++

+++

TRANSNATIONAL LEGAL PRACTICE: Intensive 1-week modules in Transnational Lawyering – Spring Term 2019

Background: The 'Engaging Transnational Law in Practice' course series was added to the curriculum of the Dickson Poon School of Law at King's College London in the academic year of 2016/2017 and constitutes an intensive programme aimed at giving students insight into transnational legal practice. As legal practice is increasingly shaped by the transnational flow of people, goods, services and capital, there is a growing demand among future law graduates for timely and expert-driven training that is both practice-oriented and relevant in the presentation of subject matter, 'big picture' analysis and case studies. In order to fill the gap between classroom teaching of doctrinal rules and the unpredictability of legal practice demands, the Transnational Law Institute has introduced the ETLP intensive professional practice programme. The different courses focus on preparing students for legal practice in litigation, advocacy or activism, in consultancy or in an advisory capacity, which all constitute crucial components for preparing graduates for their future work.

MODULE 36: Cyberlaw

Instructor: Penelope Nevill, Jonathan Price, Bernhard Maier

Mode of offering: TLP 1 Week Intensive (Monday-Friday 7-10 January 2019, 6-9pm)

This one week intensive will offer an introduction to cyberlaw, focussing on the law governing the internet and information on the internet and contemporary challenges. Class 1 will provide an overview of the legal architecture of the internet. Using examples and case studies arising in practice, classes 2 and 3 will look at information on the internet from the perspective of the individual (such as human rights, privacy, the GDPR) and the State (including official secrets, Wikileaks, public interest immunity), class 4 will focus more specifically on 'misinformation, disinformation, and propaganda: the abuse and regulation of persuasive technology' and the final class on 'driverless cars'. We will evaluate the roles of private actors and the State in cyberspace, questions of jurisdiction, 'net neutrality' and the ways in which the internet and the unprecedented access to information it provides are challenging and changing the ways we think about and govern ourselves.

MODULE 37: Law, Gender and Sexuality in India: Litigation and Advocacy

Instructor: Dipika Jain

Mode of offering: TLP 1 Week Intensive (2018-19 spring term)

An interdisciplinary course, that draws on a wide range of materials including case law, law review articles, fiction, non-fiction, newspaper articles, films and comics. The course critically engages with

important judgements of the Indian Courts on sexuality and gender minority rights and cultivate an understanding of the gender, sexuality and the law discourse in India. The central questions this course seeks to explore is: How do Courts construct and engage with identity, constitutional morality, public morality, rights of sexual and gender minorities? The course focuses on the role of Courts in creating and reinforcing sex, sexual orientation, desire, and gender norms. The Courts in these judgements either employs or rejects legal and judicial innovations developed in foreign jurisdictions. Such transnational perspective in the class is likely to deepen one's understanding of transnational sexuality and gender norms and discourses in other jurisdictions *vis-a-vis* India. In addition, the course will also critically evaluate strategies employed by activists and lawyers in India to engage with litigation.

MODULE 38: Building Transnational law: Selected Studies in Transnational Litigation

Instructors: Simon Archer

Mode of offering: TLP 1 Week Intensive (Monday-Friday 7-10 January 2019, 6-9pm)

This module uses a modified case method to highlight aspects of transnational law, and in particular, public interest and cause lawyering, as well as corporate accountability through transnational litigation. This intensive seminar form module presents five problems involving transnational law and participants "build a case" for each using the materials provided. Each problem is selected to reflect different legal issues in transnational litigation and corporate accountabilities, and to assist participants

in reflecting on the definitions and uses of "transnational law". Problems include global value/supply chains, extractive industries and toxic torts and substantive areas of law engaged cover the law of obligations, corporate law, labour and employment law, environmental law, and legal procedure. We discuss the importance of procedural frameworks, strategic questions in framing transnational litigation, and relationship to social and political movements. We identify relevant legal barriers and litigation strategies and the key actors and resources used in different forms of transnational litigation.

norms, and processes informing food law and policy.

MODULE 39: Food Law and Policy

Instructor: Jothie Rajah

Mode of offering: TLP 1 Week Intensive (2018-19 spring term)

Who are the actors shaping and contesting norms and practices in the burgeoning field of Food Law & Policy? What does it mean to pit food security and food sovereignty against each other? In the transnational field of Food Law & Policy, whose voices are heard; whose interests dominate? Through engagement with a highly accessible case study relating to a land grab in Uganda involving a London-based firm, the advocacy of Oxfam and carbon trading under the Kyoto protocol, students will grapple with these questions and ask themselves, what does it mean to treat food as a basic human right? Through the specifics of this case study, students trace local, national, and transnational dynamics involving "Big Ag", the UN, Free Trade Agreements, states, global media, and civil society organisations. Structured around a cumulative set of drafting, interest-group advocacy, and negotiation practices, this course introduces students to the law regulating food, and the actors,

Transnational Law LL.M. Faculty

Dr Silvia Borelli

(<http://www.kcl.ac.uk/law/people/visiting/sborelli.aspx>)

Dr Megan Bowman

(<http://www.kcl.ac.uk/law/people/academic/m-bowman.aspx>)

Professor Parosha Chandran

parosha@gmail.com

Professor Leslie-Ann Duvic-Paoli

Leslie-Anne.Duvic-Paoli@kcl.ac.uk

Dr Octavio Ferraz

(<http://www.kcl.ac.uk/law/people/academic/oferraz.aspx>)

Farnush Ghadery

(<http://www.kcl.ac.uk/law/tli/people/research-fellows/farnush-ghadery.aspx>)

Dr Florian Grisel

(<http://www.kcl.ac.uk/law/people/academic/fgrisel.aspx>)

Visiting Professor Priya S. Gupta (on leave 2018-19)

(http://www.swlaw.edu/faculty/faculty_listing/facultybio/340793)

Dr Holger Hestermeyer

(<http://www.kcl.ac.uk/law/people/academic/hestermeyer.aspx>)

Professor Martin Hunter

(<http://essexcourt.com/barrister/professor-martin-hunter/>)

Professor Satvinder Juss

(<http://www.kcl.ac.uk/law/people/academic/sjuss.aspx>)

Dr Dionysia Katelouzou

(<http://www.kcl.ac.uk/law/people/academic/dkatelouzou.aspx>)

Laura Knöpfel

(<http://www.kcl.ac.uk/law/tli/people/research-fellows/laura-knopfel.aspx>)

Dr Prabha Kotiswaran (on leave 2018-19)

(<http://www.kcl.ac.uk/law/tli/people/affiliated-staff/kotiswaran.aspx>)

Professor Kevin Madders

Kevin.madders@kcl.ac.uk

Christopher Markou

Cpm49@cam.ac.uk

Professor David Nelken

(<http://www.kcl.ac.uk/law/people/academic/nelken-d.aspx>)

Penelope Nevill

pnevill@2oessexst.com

Mr Tim Otty QC

(http://www.blackstonechambers.com/people/barristers/timothy_ott_y_qc.html)

Dr Nicola Palmer

(<http://www.kcl.ac.uk/law/people/academic/npalmer.aspx>)

Dr Eva Pils (on leave Spring 2019)

(<http://www.kcl.ac.uk/law/people/academic/Dr-Eva-Pils.aspx>)

Dr Michael Schillig

(<http://www.kcl.ac.uk/law/people/academic/mschillig.aspx>)

Visiting Professor Ady Schonmann-Bethlehem

(<http://www.kcl.ac.uk/sspp/departments/warstudies/people/visiting/schonmann.aspx>)

Professor John Tasioulas

(<http://www.kcl.ac.uk/law/people/academic/jtasioulas.aspx>)

Professor Cees van Dam

(<http://www.kcl.ac.uk/law/people/visiting/cvandam.aspx>)

Dr Maria Varaki

Maria.varaki@kcl.ac.uk

Professor Guglielmo Verdirame

(<http://www.kcl.ac.uk/sspp/departments/warstudies/people/professors/verdirame.aspx>)

Professor Leif Wenar

(<http://www.kcl.ac.uk/law/people/academic/lwenar.aspx>)

Professor Peer Zumbansen [Partial Leave Autumn 2018]

(<http://www.kcl.ac.uk/law/people/academic/pzumbansen.aspx>)

TLP Transnational Legal Practice Faculty [January 2019 Intensive]

Simon Archer, Goldblatt Partners LL.P. (Toronto, Canada)

Dipika Jain, OP Jindal Global Law School (Delhi, India)

Jothie Rajah, American Bar Foundation (Chicago, U.S.A.)

Penelope Nevill, King's College London & 20 Essex Street Chambers, London