

COMPARATIVE CONTRACT LAW AND PRACTICE

OVERVIEW

Comparative Law is one of the most fascinating subjects in the legal syllabus. This area of law examines the differences and similarities of legal rules and doctrines across various legal systems. Students of comparative law realise that many of the legal issues that they have encountered in their own jurisdiction are resolved in a very different manner in foreign jurisdictions. Contract law in particular has certain features that exist in a radically different shape, or are not present at all in other jurisdictions. An awareness of such differences is vital for students if they wish to be prepared for the challenges of legal practice in a globalised world, where many of them will be faced with cross-border dealings on a daily basis.

Contract law of India is based on the common law tradition of English law, which is mostly compared to the private laws of France and Germany, the two most influential jurisdictions within the Western legal tradition other than England and the US. Modern Private Law is an emerging and dynamic subject. It combines issues from various branches of legal scholarship, i.e. (national) Private Law and Comparative Law.

The UNIDROIT Principles of International Commercial Contracts (PICC) are designed to be an elaboration of an international restatement of general principles of contract law fashioned to meet the perceived need for a harmonization of the law of international commercial contracts. Harmonisation of international trade law has become crucial with the globalisation.

The course attempts to combine various norms, constantly approaching particular problems from the perspective of various national private laws, thus necessarily adopting a comparative approach. The specific areas covered in the course, while not exhaustive, are sufficient to provide participants with a good understanding of Comparative and Transnational Contract Law and Practice.

COURSE OBJECTIVES

1. To introduce participants to the chief aspects of comparative contract law & practice.
2. To introduce and elaborate upon The UNIDROIT Principles of International Commercial Contracts (PICC).
3. Familiarize participants with the international laws and conventions that govern this unique area of law;
4. Gain an understanding of case law analysis, through the detailed discussion of judicial decisions from prominent legal systems of the world on Comparative Contract Law and Practice.
5. Enable students to consider critically the effectiveness of the current legal context for commercial and consumer contracting in achieving the desired policy objectives.

MODULES

The course is structured into 20 Lectures consisting of 2 lectures per day and 2 tutorials per day:
Total 40 Hours

- The sphere of application of The UNIDROIT PICC 2010, Interpretation and supplementation of the CISG and the PICC
- Perceived need for harmonization of the law of international commercial contracts.
- Comparative Contract Law
- Formation of Contracts under the major common law & civil law traditions- UK, Australia, India, Germany, France

- Standard terms, Battle of forms
- Validity and Interpretation – intent of the parties, Contra-proferentem
- Hardship, Force Majeure, Avoidance
- Case Study on Damages/ Contractual Remedies
- Choice of law and Choice of court
- Cross-border Insolvency

YOU SHOULD ATTEND IF

- Law students at all levels (BA.LLB/LLB/LLM/JD/JSD/PhD)
- Faculty from law schools, universities, colleges and institutions of higher education,
- Lawyers, In-house counsel
- Professionals from Industry involved in Transnational Commercial Law Practice.

FEES

The participation fees for taking the course is as follows:

- A. Participants from foreign countries: US \$350
- B. Industry/ Professionals/ Lawyers: ₹20,000/-
- C. Academic Institutions (Faculty, Students): ₹10,000/-
- D. Academic Institutions (without accommodation): ₹5,000/-
- E. NLUD Faculty, Students, Ph.D. scholars: No registration fee.

Registration shall be on a first-come basis.

The above fee includes all instructional materials, computer use for tutorials and assignments, library usage charges and 24hrs free internet facility. (A)-(C) above will be provided 11-day accommodation, food and refreshments.

COURSE DURATION

12th - 22nd May, 2016

CREDITS

As per the MHRD guidelines, this course carries **TWO credits** and the same can be earned by the participants on the successful completion of the course.

DEADLINES

Registration form to be emailed to ctcl@nludelhi.ac.in

Last date of submission of application: **26th April 2016**. Confirmed candidates will be intimated by the next day.

TEACHING METHOD

The teaching method will be primarily via lecture. However, students will be expected to answer questions on the assigned readings and to engage in a discussion of the course material. In particular, the assigned readings will include court decisions, arbitral awards, and hypothetical or practical problems that the students will be expected to analyze and discuss in class.

The lectures and tutorials will examine the following main areas: General issues of harmonization; Recurrent problems in harmonization through conventions; Harmonization through specific binding instruments (Vienna Sales Convention); Soft Law in the form of UNIDROIT Principles of International Commercial Contracts (PICC). Harmonization through contract and institutional rules; harmonization through model laws; the future development of transnational commercial law.

VENUE

The course will be held at National Law University, Delhi. Sector 14, Dwarka, New Delhi- 110078.
<http://www.nludelhi.ac.in/gian.aspx>

Professor Stefan Vogenauer

International Teaching Faculty

Professor Stefan Vogenauer, is currently the Managing Director at the Max Planck Institute for European Legal History, Frankfurt. He is also a Visiting Professor for the Global Commercial Contract Law at Melbourne Law Masters Program. Professor Vogenauer is a Scientific Member of the Max Planck Society. He became Director of the Max Planck Institute for European Legal History in October 2015. From 2003 to 2015 Vogenauer held the established Chair in Comparative Law at

the University of Oxford where he also was a Fellow of Brasenose College and, since 2004, Director of the Oxford Institute of European and Comparative Law. He has taught and lectured extensively in Europe, the United States, South Africa and Australia.



Recent Publications include:

- Commentary on the UNIDROIT Principles of International Commercial Contracts (PICC) edited by Stefan Vogenauer, (Oxford University Press, 2015)
- The Common European Sales Law in Context: Interactions with English and German Law (Oxford University Press, 2013)
- 'Regulatory Competition Through Choice of Contract Law and Choice of Forum in Europe: Theory and Evidence' (2013) 21 European Review of Private Law 13-78
- Ius Commune Casebooks on the Common Law of Europe: Cases, Materials and Text on Contract Law (Hart Publishing, Oxford 2010) (jointly with H Beale, B Fauvarque-Cosson and J Rutgers)

Dr. Risham Garg

Host Faculty and Course Coordinator

Dr. Risham Garg holds a Doctor of Laws (LL.D.), doctoral research degree, for his work on International Contracts. He presently teaches courses of International Commercial Laws, Bankruptcy Insolvency & Restructuring in the LLM programme, courses in the BA.LLB. (Hons.) program on Law of Contracts, Sale of Goods and Seminar Courses of International Commercial Laws, Private International Law, Bankruptcy Insolvency & Restructuring.

He is continuing with the National Law University Delhi as a regular faculty member since 2009. He has previously worked as a Lecturer at the Amity Law School, (IP University Delhi) for over six years during 2002-2009.

He has been a visiting faculty at the National Law University Odisha Cuttack, the Indian Law Institute, Amity Business School Noida. He has been involved in publishing and presenting research papers on contemporary issues in commercial laws and active participation in consultations in various forums. He acts as an Arbitrator at the Willem C. Vis International Commercial Arbitration Moot on the International Sale of Goods (CISG Convention) at Vienna and at Hong Kong; and also at the India rounds of the Vis Pre-Moot. He has been a Visiting Research Scholar at UNCITRAL, Vienna, Austria in 2007.

Since February 2016, he is also the Research Director of the Center for Transnational Commercial Law at NLU Delhi.



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