Contemporary Issues in Law: Law and Human Rights in Central Europe
Syllabus Spring 2012

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Monday 11.40-13.00

Course description:
This course explores the development of the rule of law and human rights issues in post-communist Central Europe. We will also refer to transitional systems outside the post-communist region. Although dealing with Central European region, we will often talk about American situation as well.
First, we will face a short introduction into the history of the Central European region and its culture of human rights, and try to delineate this region. Next, we will examine the historical, national and international context of making constitutionalism and the rule of law in Central Europe. We will try to understand what human rights actually mean. We will face the debates that occurred when emerging democracies dealt with the former communist regimes. On several case studies, we will explain several basic attitudes towards the former communist regimes, its apparatchiks, its agents, and collaborators (lustration laws and dealing with the communist crimes). We will compare these approaches with those found elsewhere (South Africa, Latin America). Furthermore, we will examine contemporary human rights debates surrounding abortion, freedom of speech, social rights, the relation between religion and the state, the discrimination against minorities, gay rights, gender discrimination, affirmative action etc. We will also analyze the Western legal transplants in Central Europe and the post-communist application of basic rights. Finally, we will deal with the European Union and the legal dimension of the European Enlargement of 2004.
The classes are held on Mondays between 4:30 PM and 7.20 PM.

Grading policy
Class participation/attendance: 20%
Paper or other assignment: 30%
Mid-term: 25%
Final: 25%

Schedule of classes

Week 1 –
13 February - Overview of course
The Human Rights Development and Human Rights Traditions in Central Europe
Larry Wolff, Inventing Eastern Europe, Stanford 1994 (excerpts)

Week 2
20 February - Communist Law: Theory and Practice
**Communist Law: 1970’s and 1980’s in Central Europe**

**Week 3**
27 February - **The 1989 Revolutions, Their Constitutional Meaning**

**Optional:**

The Concept of Human Rights in the Post-Communist Legal Systems and the US
The Czech and Polish constitutions (excerpts).
Roper v. Simmons 543 U.S. 551 (US Supreme Court 2005) – juvenile death penalty case

2 March – **Drafting New Constitutions after the Fall of Communism**
The Hungarian and Czech constitutions (excerpts)
US Bill of Rights

**Lustration**
Wojciech Sadurski, Rights before Courts, Springer 2005, 223-248

**Week 4**
5 March - Watching Movie Lives of Others

**Week 5**
12 March - **Human Rights and the Role of Religion in the Legal System. The Case of Abortion**
Preamble to the Polish Constitution

**Separation of Powers. Presidential vs. Parliamentarian Systems**

Week 6
19 March - The Judiciary

Constitutional Courts and Constitutional Review

Week 7
26 March - Communist Crimes and Punishment
Shootings on the Berlin Wall Case
Wojciech Sadurski, Rights before Courts, Springer 2005, 258-262

Dealing with the Past: Analogous Cases and Varying Approaches
Spanish Judge Sends Argentine to Prison on Genocide Charge (NYTimes, June 30, 2003).
Alexis Holyweek Sarei, et al. vs. Rio Tinto Plc and Rio Tinto Ltd. (the island of Bougainville case)

Week 8
2 April - Midterm

Week 9 – Spring Break – no classes

Week 10
16 April - Free Speech: Comparing the United States and Europe
Hate Speech in Germany and Central Europe

Legal Transformation of Social Rights and the Social Welfare State
Wojciech Sadurski, Rights before Courts, Springer 2005, 171-194
**Week 11**

23 April - **Gender Equality in a Post-Communist Situation. Sex Harassment**

Speeches from the Czech Senate


**Gay Rights**


Schalk and Kopf vs. Austria (ECHR, 24 June 2010)

**Week 12**

30 April - **Affirmative Action – Case Study**


University of Michigan Law School Case (2003)

Eric Jenne, The Roma of Central and Eastern Europe: Constructing a Stateless Nation, In:


(affirmative action as a redress of past wrongs).


**The European Union and its Constitutional Meaning (two hours)**


**Week 13**

7 May - **Freedom of religion in Europe**

Leyla Şahin v. Turkey (ECHR, 10 November 2005)

**Week 14**

14 May - TBA

Week 15 – Exam

In class exam 21 May

Papers due 21 May