

॥ न्यायस्तत्र प्रमाणं स्यात् ॥



# NATIONAL LAW UNIVERSITY, DELHI

Short Course on

## **'COMPARATIVE CONTRACT LAW AND PRACTICE'**

May 12th-22nd, 2016

Organized by

**CENTER FOR TRANSNATIONAL COMMERCIAL LAW  
(CTCL),  
NATIONAL LAW UNIVERSITY, DELHI**

Under the Grant from:

**GLOBAL INITIATIVE OF ACADEMIC NETWORKS (GIAN)**

**MINISTRY OF HUMAN RESOURCE DEVELOPMENT**

**(MHRD),**

**GOVERNMENT OF INDIA**



## GLOBAL INITIATIVE OF ACADEMIC NETWORK (GIAN) MINISTRY OF H.R.D. (MHRD), GOVERNMENT OF INDIA

### ABOUT GIAN:

The Government of India has approved a new program titled Global Initiative of Academic Networks (GIAN) in Higher Education aimed at tapping the talent pool of scientists and entrepreneurs, internationally to encourage their engagement with the institutes of Higher Education in India so as to augment the country's existing academic resources, accelerate the pace of quality reform, and elevate India's scientific and technological capacity to global excellence.

In order to garner the best international experience into our systems of education, enable interaction of students and faculty with the best academic and industry experts from all over the world and also share their experiences and expertise to motivate people to work on Indian problems, there is a need for a scheme of International Summer and Winter Term. During the Retreat of IIT's with the Hon'ble Minister of Human Resource Development Smt. Smriti Zubin Irani on 29th June, 2014 at Goa, it was decided that "A system of Guest Lectures by internationally and nationally renowned experts would be evolved along with a comprehensive faculty development programme not only for new IITs, IIMs, IISERs but also other institutions in the country.



## GLOBAL INITIATIVE OF ACADEMIC NETWORK (GIAN) AT NATIONAL LAW UNIVERSITY, DELHI "Comparative Contract Law and Practice", May 12-22, 2016

With the growth of international trade has come a growing recognition of the benefits to be obtained through the harmonization of international trade law. Transnational commercial law consists of that set of rules, from whatever source, which governs international commercial transactions and is common to a number of legal systems. Such commonality is increasingly derived from international instruments of various kinds; such as conventions and model laws, and from codifications of international trade usage adopted by contract, principles developed by the courts and legislatures of different jurisdictions.

The principal objective of the course is to enable participants to acquire knowledge and understanding in the area of Comparative Commercial Law and to discuss and assess critically at an advanced level the legal and policy issues arising therefrom. Participants may expect to gain a deeper understanding of the nature of contract law, basic knowledge of the major legal traditions in this area of the law and the ability to master a wide range of strongly heterogeneous sources – all of which are competences and skills of increasing importance in the modern world. Examples from national legal systems will mainly be drawn from England, India, France, German law.

This short course will be conducted primarily by Professor Stefan Vogenauer, during May 12-22, 2016. Professor Vogenauer's erudite exposition of the Comparative Contract Law would be of immense utility in not only enhancing value but also developing an understanding of the underlying philosophy of Contract Law.

## **COURSE TITLE: "COMPARATIVE CONTRACT LAW AND PRACTICE"**

### **NAME OF THE FACULTY**

Professor Stefan Vogenauer



### **DESIGNATION**

Managing Director, Max Planck Institute for European Legal History, Frankfurt.

Visiting Professor for the Global Commercial Contract Law at Melbourne Law Masters

### **AFFILIATION**

**Max Planck Institute for European Legal History**, Frankfurt, Germany.

Former Director of the Oxford Institute of European and Comparative Law; Linklaters Professor of Comparative Law, **University of Oxford**.

### **CURRICULUM VITAE**

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**

- Commentary on the UNIDROIT Principles of International Commercial Contracts (PICC) edited by Stefan Vogenauer, (**Oxford**, 2015)
- The Common European Sales Law in Context: Interactions with English and German Law (**Oxford University Press**, 2013)
- 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)
- Reforming the French Law of Obligations: Comparative Observations on the Avant-projet de réforme du droit des obligations et de la prescription (the 'Avant-projet Catala') (jointly edited with J Cartwright and S Whittaker, Hart Publishing, Oxford 2009)
- Content and Meaning of National Law in the Context of Transnational Law (jointly edited with H Snijders, Sellier European Publishers, Munich 2009)
- 'Interpretation of Contracts: Concluding Comparative Observations' in A Burrows and E Peel (eds), Contract Terms (Oxford University Press, Oxford 2007)

## **COURSE OVERVIEW**

Comparative Law is one of the most fascinating subjects in the legal syllabus. Comparative lawyers examine the differences and similarities of legal rules and doctrines across various legal systems. 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.

The UNIDROIT Principles of International Commercial Contracts (PICC) are designed to be an elaboration of an international restatement of general principles of contract law. They attempt to meet the perceived need for a harmonization of the law of international commercial contracts in a fashion that avoids some of the problems that more traditional tools of harmonization have met with in the past.

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 & Practice. Additionally, since the course materials include numerous cases (from common law and civil law jurisdictions), and hypothetical discussion problems, the program contents also are consistent with the course objectives of familiarizing students with case law analysis from various judicial bodies and jurisdictions outside India.

The Comparative Contract Law expositions of Common Law (mainly from U.K., Australia, India) and Civil Law (Germany) along with comprehensive coverage of PICC, by Professor Vogenauer, would be adequately backed up by suitable references from Indian Contract Law- provisions, cases & comment, by Dr. Risham Garg, the NLUD host Faculty for the course, who also manages activities of the Center for Transnational Commercial Law at NLUD.

## **OBJECTIVES OF THE COURSE**

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

## PROGRAMME SCHEDULE

<p><b>Day 1, May 12th:</b></p> <ul style="list-style-type: none"> <li>- The sphere of application of The UNIDROIT Principles of International Commercial Contracts (PICC) 2010.</li> <li>- Interpretation and supplementation of the CISG and the PICC</li> </ul>	<p><b>Day 2, May 13th:</b></p> <ul style="list-style-type: none"> <li>- Sources of Law and Legal Method in Comparative Law</li> <li>- Perceived need for harmonization of the law of international commercial contracts.</li> </ul>
<p><b>Day 3, May 14th:</b></p> <ul style="list-style-type: none"> <li>- Comparative Contract Law</li> <li>- International Commercial Contracts</li> <li>- Good Faith &amp; Fair dealing</li> </ul>	<p><b>Day 4, May 15th:</b></p> <ul style="list-style-type: none"> <li>- Freedom of Contract</li> <li>- Formation of Contracts under the major common law &amp; civil law traditions- UK, Australia, India, Germany, France</li> </ul>
<p><b>Day 5, May 16th</b></p> <ul style="list-style-type: none"> <li>- Formation of Contracts under PICC 2010</li> <li>- Standard terms, Battle of forms</li> <li>- Case Study on conflict between standard terms and non-standard terms</li> </ul>	<p><b>Day 6, May 17th</b></p> <ul style="list-style-type: none"> <li>- Validity of Contracts</li> <li>- Factors vitiating consent- mistake, error, duress, fraud, notice.</li> <li>- Interpretation – intent of the parties, Contra-proferentem</li> </ul>
<p><b>Day 7, May 18th</b></p> <ul style="list-style-type: none"> <li>- Performance and specific relief</li> <li>- Non-performance</li> <li>- Hardship, Force Majeure, Avoidance</li> </ul>	<p><b>Day 8, May 19th</b></p> <ul style="list-style-type: none"> <li>- Damages , Foreseeability</li> <li>- Penalty clauses, Unliquidated damages</li> <li>- Case Study on Damages/ Contractual Remedies</li> </ul>
<p><b>Day 9, May 20th</b></p> <ul style="list-style-type: none"> <li>- Transnational commercial litigation;</li> <li>- Choice of law and Choice of court</li> <li>- Jurisdiction Agreements</li> </ul>	<p><b>Day 10, May 21st</b></p> <ul style="list-style-type: none"> <li>- Cross-border Insolvency</li> <li>- UNCITRAL Model Law on Cross-border Insolvency</li> </ul>
<p><b>Day 11, May 22nd</b> Test for participants</p>	
<p>Host Faculty and Course Coordinator  <b>Dr. Risham Garg,</b>  Assistant Professor of Law  <b>National Law University Delhi,</b>  Sector-14, Dwarka, New Delhi-110078.  <a href="http://nludelhi.ac.in/gian.aspx">http://nludelhi.ac.in/gian.aspx</a></p>	

## DURATION OF THE COURSE AND CREDITS

This Eleven days/40 hours programme (May 12 - 22, 2016) will have 20 lectures and 10 tutorials. On the basis of assessment made by a written examination, a certificate of accomplishment shall be granted.

**TWO CREDIT COURSE:** As per the MHRD GIAN guidelines, this course carries TWO credits and the same can be earned by participants on successful completion of this course. The credit transfer in case of NLU, Delhi students would be done in their existing degree programme.

The non-NLUD students will have to identify a compatible course from their institution which they are procedurally undergoing for the purpose of credit transfer. In order to get this credit transfer they need to process their application from their respective institutions.

## EXPECTED AUDIENCE

- Law students at all levels (BA.LL.B/LL.B/LL.M/JD/J.S.D/PhD)
- Faculty from law schools, universities, colleges and institutions of higher education
- Lawyers, In-house counsel
- Professionals from Industry involved in International Commercial Law Practice.

## REGISTRATION FEE

- A. Participants from outside India: US \$350
- B. Industry/ Professionals/ Lawyers: Rs. 20,000/-
- C. Academic Institutions (Faculty, Students): Rs. 10,000/-
- D. Academic Institutions (Delhi NCR without accommodation): Rs 5000/-
- E. NLUD Faculty, Students, Ph.D. Scholars: No registration fees.

Registration shall be on a first-come basis.

Accommodation on campus shall be provided only to outstation candidates (subject to availability).

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.

These facilities will be offered against payment and availability for (D).

## PROCEDURE OF APPLICATION

Registration form to be emailed to [ctcl@nludelhi.ac.in](mailto:ctcl@nludelhi.ac.in)

Last date of submission of application: **26th April 2016.**

Confirmed candidates will be intimated by **27th April 2016.**

Demand Draft to be made in favour of: - Registrar, National Law University Delhi, and made payable at Delhi.

Superscribe on the envelope:

"MHRD GIAN Short Course on 'Comparative Contract Law and Practice'"

Short Course on  
**'Comparative Contract Law and Practice'**  
May 12- 22, 2016

Under the Global Initiative of Academic Network (GIAN),  
Ministry of Human Resource Development, Government of India

Organized by  
Center for Transnational Commercial Law (CTCL)  
National Law University, Delhi.

<b>Name:</b>		Photo
<b>Designation and Institution</b>		
<b>Address:</b>		
<b>Email ID:</b>		
<b>Mobile No.:</b>		
<b>Accommodation (Y/N)</b> (only for outstation candidates)		
<b>Demand Draft No. and Bank, Date of Issue</b>		
<b>Amount:</b>		

Demand Draft to be made in favour of: - Registrar, National Law University Delhi, and made payable at Delhi.

**Declaration:** I hereby agree to pay the above mentioned registration charges and declare that the information provided above is true.

Signature