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Transnational Organised Crime, Trafficking in Persons, Smuggling of Migrants International Law and Domestic Practice

Sommersemester 2017, Semester 2, 2017
25–29 September 2017, Brisbane, Australia
UQ: LAWS5231/U:Vie: SE 030282

Course Outline

This course introduces students to contemporary and significant issues relating to criminal justice, politics, and public discourse, focusing specifically on transnational organised crime, trafficking in persons, and smuggling of migrants. Students in this course undertake directed research on selected issues relating to the criminology, policies, laws, criminal procedure, law enforcement and judicial practice in this field. Particular attention is given to the United Nations *Convention against Transnational Organised Crime*, the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*, and the *Protocol against the Smuggling of Migrants by Land, Sea and Air*, their development and interpretation, implementation into domestic law, and their application in real cases. The course involves comparative analysis between continental European and common law jurisdictions and their criminal justice systems (focusing specifically on Australia and Austria).

This course also provides students from The University of Queensland School of Law and the University of Vienna Faculty of Law with an opportunity to engage in research-led learning, exchange ideas and discuss contemporary criminal justice matters in an academic setting, conduct supervised research work, engage with experts, relevant organisations and other stakeholders in the field, and gain in an international environment. Student involvement in this course combines independent research with team-based learning. The course involves frequent in-class debates, with students expected to lead discussions, present their findings, conduct peer review of other students' research, and work together towards common goals. This course serves to improve communication and collaboration between students and encourages greater involvement in the universities' research activities.

The course invites students to critically reflect on the nature and limitations of international and domestic law relating to transnational organised crime, trafficking in persons, smuggling of migrants and related offences, explore the criminology of these crimes, and understand the rationale of policies, legislation, and law enforcement measures in this area. Moreover, the course seeks to improve students' communication, presentation, writing, and legal research skills. The course enhances students' abilities to research legal material, critically analyse legislation, case studies and scholarly writing, present research findings to academic audiences,

engage with key stakeholders and elaborate practical recommendations for law reform and policy change relevant to the subject area.

Participants in this course and their research projects are profiled on a designated website. Students also have the opportunity to develop their essays into research papers suitable for publication online and, perhaps, for submission to peer-reviewed journals.

Graduate Attributes

After successfully completing this course, students should be able to:

- demonstrate a general understanding of the topics of transnational organised crime, trafficking in persons, and smuggling of migrants;
- demonstrate comprehensive knowledge of relevant source material, including relevant legislation, case law, government documents, and scholarly writing;
- understand relevant government policies in this field and in related areas;
- understand and appreciate the situation, needs, and rights of victims, offenders, witnesses, and those involved in the criminal justice process;
- conceptualise and independently carry out a research project;
- identify and structure relevant issues and present them logically;
- independently research, identify, and locate relevant information and literature of the highest quality;
- present and communicate research outcomes to an academic audience;
- develop alternative strategies and recommendations for law reform and policy change;
- discuss topical issues in an open forum;
- communicate clearly and efficiently in a research paper.

Prerequisites and Selection Process

University of Vienna students:

Must have either

- (1) started their doctoral studies or
- (2) must, at a minimum, have passed the Modulprüfung Strafrecht.

The University of Queensland students:

Must be enrolled in a single or dual LLB degree and must have completed both LAWS2113 and with a grade 5 or higher.

Application and selection process

Enrolment in this course by application only.

Course Material

There is no mandatory reading material for this course. The sources used for the various research projects will vary between topics. Assistance in identifying and location relevant sources may be sought from the course coordinators. Students should also liaise with each other and, in particular, their discussants to exchange material and assist one-another in locating relevant laws, legislative material, cases, official reports, books, journal articles, and other relevant sources.

UQ Students also need to familiarise themselves with the material available on the Blackboard site for this course and the information available at www.law.uq.edu.au/humantrafficking and www.law.uq.edu.au/migrantsmuggling.

Schedule

Planning meeting: Introduction and allocation of topics.

University of Queensland	2 May 2017	2:00am	room t.b.a.
University of Vienna	24 April 2017	5:00pm	Schenkenstrasse 4, 2. Stock

Further preparation

University of Queensland	5 July 2017	2:00pm	room t.b.a.
University of Vienna	8 June 2017	5:00pm	

University of Vienna students may submit a draft outline for comment by 20 July 2017 and will receive feedback by early August 2017

MAIN TEACHING DAYS

Teaching room t.b.a

Sunday, 24 September 2017

6:00pm Informal get-together (students only)

Monday, 25 September 2017

10:00am	Welcome and Introduction
11:00am	Setting the scene (interactive session)
12:00pm	Lunch break
12:45pm	Presentation #1: [...]
1:35pm	Presentation #2: [...]
2:20pm	Coffee break
2:.45pm	Presentation #3: [...]
7:00pm	Welcome reception

Tuesday, 26 September 2017

10:00am	Guest presentation [...]
11:00am	Coffee break
11:15am	Presentation #4: [...]
12:05pm	Presentation #5: [...]
12:55pm	Lunch Break
1:40pm	Presentation #6:

2:30pm [...]
 Presentation #7:
 [...]

Wednesday, 27 September 2017

10:00am Briefing
 [...]
 11:00am Coffee break
 11:15am Presentation #8:
 [...]
 12:05pm Presentation #9:
 [...]
 12:55pm Lunch Break
 1:40pm Presentation #10:
 [...]
 2:30pm Presentation #11:
 [...]

Thursday, 28 September 2017

10:00am Guest presentation
 [...]
 11:00am Coffee break
 11:15am Presentation #12:
 [...]
 12:05pm Presentation #13:
 [...]
 12:55pm Lunch Break
 1:40pm Presentation #14:
 [...]
 2:30pm Presentation #15:
 [...]

Friday, 29 September 2017

10:00am Presentation #16:
 [...]
 10:50am Presentation #17:
 [...]
 11:40am Break
 12:00pm Reflections & recommendations (interactive)
 1:00pm Course Evaluation and Closing

Submission of research papers

University of Queensland students:	2 November 2017	12:00pm (Brisbane time)
University of Vienna students:	30 August 2017	12:00pm (Vienna time)

Assessment

Presentation 40% of final grade

All students must work on a designated research topic and present their research findings in class. Students can choose their research topic from a set list that will be available prior to the planning meeting and introduction to the course. Each topic will be assigned a specific presentation date and time; these are not negotiable.

Additional information about the projects and modes of presentation (PowerPoint, handouts) will be supplied prior to the beginning of the course. Students will be presenting their projects in a 20-minute presentation, followed by 20 minutes of discussion with feedback.

Grading criteria:

- Outline, introduce, explain the research topic;
- Critically analyse and explore relevant issues;
- Structure and weight relevant issues;
- Develop alternative strategies and recommendation for reform;
- Visualise and communicate research outcomes clearly;
- Discuss topical issues in an open forum; and
- Conduct in-depth research using information and literature of highest quality.

Presentations will be held in English only.

Research paper 60% of final grade

Each student must submit an individual, written summary of his/her research topic (fully footnoted and referenced according to the Law School Citation). The research paper accounts for 60% of the final grade (and is not redeemable). All papers must have an introduction, conclusion and a bibliography. The word limit for the papers is 7000 words [or 50,000 characters]. The assessment is, however, based on quality, not quantity.

Grading Criteria:

- Identify, scope, introduce, and state the significance of the research project;
- Critically analyse and explore relevant issues;
- Structure and weight relevant issues;
- Develop alternative strategies and recommendation for reform;
- Communicate clearly and efficiently in a written paper; and
- Conduct in-depth research using information and literature of highest quality.

Students have a choice to write their paper either in English or in German.

Due date: 2 November 2017, 12:00pm for UQ students
 30 August 2017, 12:00pm for University of Vienna students

Instructions about how to submit your paper will be communicated by the course-coordinators closer to the respective due dates.

Discussant

Each student will also act as the discussant of another student's research project. The role of the discussant is to offer support and feedback and provide some peer review of draft research papers. The discussant will provide oral feedback on the presentation of the research project

and provide written feedback on a draft of the research paper. Discussants will be assigned after the planning meeting.

Research topics

Students can choose from a set list of topics and are required to present their research findings in class during the course days in September 2017 and submit a written, fully referenced summary of their research at the completion of the course. The research topics centre on the criminology and laws relating to trafficking in persons and smuggling of migrants in common law and civil law jurisdictions, chiefly Australia and Austria.

In this semester, the focus of this course will be on five main topic areas:

(1) *Routes and methods of smuggling of migrants*

This segment of the course explores several principal routes used to smuggle migrants. Each of the following topics explores the levels and patterns of smuggling, including the available data, profile and background of the smuggled migrants, smuggling methods (including information on costs/fees), profile and networks of the smugglers. The focus of these topics on the criminology of offending (and not on law).

Smuggling of migrants to Ceuta and Melilla

Smuggling of migrants from Kosovo to Austria

Smuggling of migrants from Turkey to Greece

Smuggling of migrants by air to Australia

(2) *Border measures to contain the smuggling of migrants*

This segment of the course explores the impact of various border control measures on the levels and patterns of smuggling of migrants. In particular, this segment examines whether the various measures are able to stop, prevent, and reduce the smuggling of migrants or whether they push migrant smuggling further underground or displace smuggling to other routes. While the focus of these projects is on the general nexus between the specific measure and smuggling, country examples may be used to illustrate particular points and/or examine the impact of these measures in practice.

Border fortifications, fences and walls to stop the smuggling of migrants: practical impact and legal limitations (separate country studies: (1) Hungary-Serbia (outer border of the EU), or (2) Austria (inner EU borders, Schengen-Zone), or (3) US-Mexico)

Border controls and document checks at land borders, airports, and seaports: legal frameworks and practical measures (possible country studies: (1) Germany, or (2) Australia)

Visa requirements and entry restrictions – and their impact on smuggling of migrants (possible country studies: (1) Australia, or (2) US)

The use of force to stop illegal entry: How much force can be threatened and applied to stop persons from entering a country/crossing a border unlawfully? (separate country studies: (1) Australia, or (2) Austria)

(3) *Prostitution and trafficking in persons*

In the literature and popular media, prostitution is frequently equated with trafficking in persons. This argument is also often used to call for a complete prohibition of all forms of prostitution. This segment of the course takes a nuanced and in-depth look at different types of prostitution, their regulation, and the levels and types of exploitation and trafficking. The following projects

require a thorough analysis of the laws and regulations governing the specific type of prostitution in the jurisdiction.

Street prostitution, exploitation and trafficking in persons in Austria

Prostitution in licensed and unlicensed brothels, exploitation and trafficking in persons in Austria

Prostitution in licensed and unlicensed brothels, exploitation and trafficking in persons in New South Wales and Victoria

Prostitution, exploitation and trafficking in Nevada

Online prostitution (including through social media), exploitation and trafficking

(4) *Forced marriage*

The topic of forced marriage as a form of trafficking in persons has gained greater attention in years and several jurisdictions have introduced specific offences to penalise this phenomenon. One of the challenges in this field is to differentiate between forced marriages (which are exploitative) and arranged marriages and sham marriages. The following projects explore the levels, patterns, reported cases and the laws and criminal offences relating to forced marriages.

Forced marriages in Austria

Forced marriages in Australia

(5) *Identification and cooperation of victims of trafficking in persons*

The identification of victims of trafficking in persons and their cooperation in criminal proceedings are crucial for combatting trafficking effectively and for bringing perpetrators to justice. Many victims, however, do not wish to be identified or are in situations in which they have no opportunity to make contact to the authorities or seek outside help. Moreover, for a host of reasons many victims are not inclined to assist investigators and prosecutors in criminal proceedings against their traffickers. This segment of the course explores the reasons for the unwillingness or inability of some victims to be identified and cooperate and examines the available measures to enhance victim identification and cooperation.

Identification of victims of trafficking in persons in Austria: methods, successes, obstacles

Identification of victims of trafficking in persons in Australia: methods, successes, obstacles

Protection of victim-witnesses in criminal proceedings against traffickers in Austria

Protection of victim-witnesses in criminal proceedings against traffickers in Australia

Should victims of trafficking in persons who cooperate with law enforcement and prosecutors gain better protection (including better immigration status) than those who don't?