

LL.M in Public Law – courses offered 2007-8

[Note: Course offerings may change from year to year. ECTS refers to the credit weighting of each course. The total number of ECTS credits required for the degree is 90. A total of 70 must be obtained from course work and 20 from the dissertation.]

1. Foundation Courses (compulsory)

Advanced Legal Research and Methods (5 ECTS)

Course co-ordinator: Larry Donnelly

This course will build on the research skills already acquired by students in their primary law degree programmes. It will be closely linked to and designed to facilitate the writing components and the dissertation requirement of all students on the programme.

The emphasis will be on practical exercises which will include elements of the following: textual analysis, literature review, research presentation, report writing, research evaluation.

Law, Regulation and Policy (5ECTS)

Course co-ordinator: Laurent Pech

This foundation course will examine the role of law in the formulation and implementation of regulation and policy in various fields of public law. The role of law in facilitating activities, in providing a framework and structure within which they can operate, and in establishing a basis for regulatory norms and practices, will be discussed. The role of regulatory bodies in devising regulation (goal setting, establishing criteria, engaging in consultation processes etc.) and implementing it (monitoring, compliance, adjudicating, advocacy, etc.) will be considered, as will various forms of regulation (regulation, co-regulation, self-regulation, etc.). The focus of the course will range from national to European (EU and Council Of Europe) level and cover a variety of topics, for example law and governance in the context of the EU. Topics may vary from year to year.

2. Optional Courses – Semester 1 (Full-time students must choose 2 courses ; part- time students must choose 1 course)

Sentencing and Penal Policy (15 ECTS)

Course co-ordinator: Tom O'Malley

This course begins with a detailed analysis of the moral justifications for punishment and their current relevance. This will be followed by a study of the historical development of selected penal practices and institutions, including imprisonment, probation and community based sanctions. The latter part of the course will concentrate on judicial sentencing practices, with particular emphasis on the general principles of sentencing developed by courts in common law jurisdictions, and on the strategies more recently adopted by governments and courts in other

Western countries to structure sentencing discretion. Sentencing theory and policy has been enriched by contributions from many disciplines including philosophy, social theory, law and history. The reading required for this course will draw on all of those disciplines.

Theories of Judicial Activism (15 ECTS)

Course co-ordinator: Gerard Quinn

This course critically examines the role of the courts as agents of change within society. It explores the phenomenon of 'judicial activism' in Irish Constitutional law from a comparative perspective. Such activism is inherently suspect given the ambiguity of many important constitutional provisions to begin with and especially given the centrality of the legislature as the main democratic forum for addressing profound social and moral issues. The focus of our enquiry will be on competing theories concerning the legitimacy of activism as a process distinct from its result in any given case. The principal comparison will be with the United States and especially with the case law of the Warren Court. It will explore both conservative and liberal theories of activism and the possibility of mediating between the two through the concept of 'public reason'. It will include an assessment of the contribution of various Irish and American judges as well as various theorists such as Oliver Wendell Holmes, Judge Cardozo, Herbert Wechsler, Alexander Bickel, Judge S. Kelly Wight, Bruce Ackerman, Robert Bork, and Ronald Dworkin among others.

Communications Law: Law, Technology and Change (15 ECTS)

Course co-ordinator: Marie McGonagle

This course focuses on the legal issues surrounding communications, particularly mass media, in the context of evolving technological, economic and social change. Advances in technology have spawned new services and new platforms for delivery of content, have opened up new possibilities and markets for advertising, archiving and other methods of information storage and management. Convergence of technologies has led increasingly to convergence also of regulation and regulators. Key questions facing regulators and policy-makers will be discussed. In this new environment, these include how to accommodate technological and economic developments, how to safeguard democratic values and meet social objectives, ensure pluralism and diversity, and protect the citizen as well as consumer.

The Criminal Jury: (15 ECTS)

Course co-ordinator: Conor Hanly

The purpose of this module is to consider differing methods of criminal adjudication in the common law. The primary focus of the module will be on the criminal jury – its proper role, its development, and its strengths and weaknesses. The module will consider historical, contemporary and comparative materials. Through an examination of the development and principal characteristics of jury trial, we will consider the reasons for the decline since the nineteenth century of the jury as the principal dispositive mechanism in the criminal law. We will also consider the implications of a structured system of plea-bargaining and juryless trials, and the benefits that are said to come from the jury

3. Optional Courses – Semester 2 (Full-time students must choose 2 courses ; part- time students must choose 1 course)

Processes of Law Reform (15 ECTS)

Course co-ordinator: Gerard Quinn

This course examines the process of democratic law reform. It will look at how effective arguments for law reform can be made and the various interests that must be balanced in order to achieve sustainable and legitimate change. It will explore the various mechanisms available to identify and prioritise particular law reform challenges in the public law sphere. Its scope will be comparative in nature and will look particularly at the role and critical success factors of law reform commissions worldwide. It will explore the parliamentary committee system and the link between parliamentary reform and the law reform process. It will consider the use of special government commissions as well as other public interest bodies such as equality bodies and human rights commissions.

Disability Law: Contemporary Law Reform Challenges in the National and International Sphere (15 ECTS)

Course co-ordinator: Mary Keys

The purpose of this course is to explore the key challenges facing the process of disability law reform that is underway worldwide as well as in Ireland. Effectively, this is a law reform process that seeks to accommodate human difference and is premised on the inherent equality of all persons and a rejection of the ‘separate but equal’ segregationist doctrine. It is taking place in fields as diverse as mental health, civil commitment, incapacity law, education law, employment law, housing law, etc. The course will look at a shifting menu of contemporary issues such as the drafting of the UN treaty on the rights and dignity of persons with disabilities, the growing relevance of EU anti-discrimination law, relevant Council of Europe instruments and the relevance of the ‘rights-based’ approach to service delivery.

Equality Law: Principles and Thematic Application (15 ECTS)

Course co-ordinator: Donncha O’Connell

This course will examine the theoretical foundations of non-discrimination and equality law and trace the evolution of equality principles in International Human Rights Law, European Law and Irish Law. The transformative potential of equality legislation as an instrument of social change, as a theory of equality will be explored critically. In weeks 6-12 students can choose one thematic focus in which the historical evolution of equality principles in the national and international sphere will be examined (from the following list) gender equality, sexual orientation, race/ethnicity.

Problems and Challenges Facing the Criminal Process (15 ECTS)

Course co-ordinator: Tom O’Malley

The emphasis in this course will be on the tensions and antinomies that contribute to the evolving nature of the criminal process. Courts and legislators must constantly seek to balance the competing demands of liberty and security, truth and fairness, process and outcome. This course will examine the manner in which these enduring dilemmas are resolved through a detailed and comparative study of certain key issues in criminal justice, including the admissibility of improperly obtained evidence, the prosecution function, disclosure, pre-trial publicity, the role of the jury and the corrective role of the appeal courts. The materials covered will be mainly legal in nature and will be drawn from Ireland and other common law jurisdictions and, to a significant extent, from the jurisprudence of the European Court of Human Rights.