***Mediation Theory and Skills and Methods to Foster Democratic Dialogue***

**(Lela P. Love, James Coben, Kinga Goncz, Joseph Stulberg)**

**Course Description**

Through lecture, discussion, demonstration and role-plays, students will be introduced to mediation theory and skills and examine the impact of culture and context on the mediation approach adopted. Examples will focus on mediation models and scenarios from both the United States and Central and Eastern Europe. The course will also examine a variety of strategies to foster and support democratic and constructive dialogue, particularly focusing on "high-conflict" situations involving inter-ethnic tensions. Students will study efforts in Central and Eastern Europe to promote meaningful democratic dialogue in times of national and international crisis. Participants should come prepared for a highly interactive learning experience.

**Week 1: July 9 to 13**

July 9 Principles of Dispute Settlement and Introduction to Negotiation Theory

Lecture and general discussion examining assumptions about dispute settlement, analyzing various dispute settlement methodologies, and exploring the role of mediation within that context. A small group negotiation exercise will illuminate the principles and dynamics underlying voluntary dispute settlement methodologies.

A brief history of conflict in Central and Eastern Europe will be presented.

July 10 An Overview of the Mediation Process and Related Mediator Skills

A demonstration of a mediator at work will be followed by an examination of the various functions the mediator fulfills and the types of traits/interpersonal skills required of persons discharging these functions.

A summary description of conflict resolution initiatives in Central and Eastern Europe will be presented.

July 11 Structuring and Beginning a Mediation Session

Analysis of the appropriate ways for convening and structuring the participation of parties, witnesses, support persons, attorneys and other representatives and interpreters in the mediation conference. Room design and seating arrangement for mediation sessions will be examined, as well as the components of an opening statement by the mediator.

The class will view and analyze a movie portraying a variety of conflict resolution processes.

July 12 Listening Constructively to Disputing Parties and Crafting a Discussion Agenda

Lecture and interactive exercises will focus on fact-gathering, note-taking and questioning techniques. The task of translating hostile and adversarial communication into building blocks of collaborative dialogue will be explored, as well as the mediator’s role in identifying, framing and ordering the issues in dispute.

July 13 Generating Movement Towards Understanding and Agreement

Lecture, discussion and exercises examining the rationale of various settlement strategies that a mediator can use to move the parties towards agreement. Analysis will highlight persuasive techniques for moving parties from impasse to settlement.

Practice in using techniques presented will follow.

**Week 2: July 16 to 20**

July 16 Dealing Effectively with Diversity and Difference in the Mediation Context

An analysis of the effects of ethnic, religious, gender and other differences on the conflict resolution process.

An overview will be presented regarding conflicts between ethnic minorities and majorities in Central and Eastern Europe.

July 17 Meeting Separately with the Parties (Using the Caucus) in Mediation, Bringing Closure to Sessions and Capturing Agreements between Parties

An examination of the purposes and strategies of meeting in caucus sessions with the parties. Participants will review procedures for closing a mediation session and drafting mediation agreements.

A case study will be presented regarding an ethnic conflict.

July 18 Ethical Considerations in Mediation

Discussion and exercises focusing on ethical dilemmas faced by mediators, particularly challenges to a mediator’s impartiality, and the potential for abuse of discretion and power.

July 19 Using Mediation Skills to Foster Democratic Dialogue

An examination of the use of mediation and facilitation skills to encourage and support democratic dialogue in emerging democracies.

July 20 Pulling the Pieces Together: Final Mediation Simulations

Participants will conduct a mediation session and analysis will follow the completion of each simulation.

Course closure and evaluation.

FOR THE SECOND TWO WEEKS OF THE SEQUENCE STUDENTS CAN ELECT TO TAKE ONE OF THE FOLLOWING COURSES:

***Dispute Resolution Approaches in Labor Disputes in Emerging Democracies***

**(Manfred Weiss and Csilla Kollonay Lehoczky)**

**Course Description**

The concept of "justice" in the context of labor disputes has gone through dramatic changes and fluctuations in Central and Eastern Europe. From the law of lawless societies where rights and duties, liabilities and remedies were decided primarily on the basis of political and ideological considerations, the region is moving towards the "rule of law" where the law, set by the State, is enforced and recourse to independent courts is a right of every citizen. Labor disputes, once handled through workplace committees, "peoples' courts," or similar organs of "social justice," are now being channeled to an independent judiciary applying the "rule of law".

The initial burst of enthusiasm and optimism accompanying this trend has been tempered by the harsh realization that in countries with very limited resources, open access to a court system is severely limited by insufficient staff and infrastructure. The lack of real enforceability of rights through the state court system has prompted use of Alternative Dispute Resolution (ADR) processes to deliver justice and resolve labor disputes. Mediation and conciliation are now among the standard and primary processes for conflict resolution in the new labor codes for resolution of collective labor conflicts, as well as being targeted, in some countries, for individual labor disputes too.

Even though ADR processes now are available, they are used far too infrequently. Education about, and consequently awareness of, the available processes has been lacking. Past manipulative use of non-court-based institutions (particularly "soft" methods like mediation) has led to a loss of credibility and legitimacy of ADR processes. Finally, the lack of adequate quantity and quality of expertise in the CEE countries about ADR methods hampers their use and growth. This course is intended to fill the educational gap, offering a course of study in both theory and skills connected with ADR and labor disputes.

**Week 1: July 23 to July 27**

July 23

Introduction to the course and defining the starting point for the two weeks program.

Analysis of the suitability of mediation/conciliation in labor and employment situations involving a power imbalance between the parties. The class will distinguish between legal and non-legal disputes and compare traditional and alternative dispute resolution methods.

July 24

International, regional and historic comparison and survey of conventional and non-conventional dispute resolution methods. This class will examine: Central-East European developments from party commissioners to private mediators; the impact of the short term and long term history and traditions on the preferred ways of dispute resolution; advantages and disadvantages of pursuing various dispute resolution alternatives; and the influence of Western (primarily American and British) dispute resolution methods on the legislation about and practice on industrial disputes in the Central and East European countries.

July 25

Individual disputes. Options of conflict resolution. Similarities and dissimilarities in European and Central- East European employment dispute resolution. Principal and pragmatic background of the actual solutions and their changes. The impact of the business and constitutional environment to accepted methods of individual labour law disputes. A critical analysis of the operation of the labour courts in the Czech Republic, Poland, Hungary and Germany. Advantages and disadvantages of judicial intervention and options for dispute resolution connected to the role of the judge. Termination of the employment relationship as a special case for the use of ADR methods.

July 26

Collective interest disputes. Categories of typical subject matters of collective interest disputes. Principal differences dividing the two sides of the world of labour: share in the results of the production. Fundamental conflicts and secondary conflicts in an employment relationship and their solution possibilities. Disputes about share of gains and burdens deriving from the economic activity of the employer. Whose interest is efficiency and restructuring? Negotiation and conciliation about modernization. The role of mediation before and during institutionalized forms of disputes. How to know the dividing point between Models of successful conciliation and mediation in the course of restructuring and privatization.

July 27

Tripartism at national and regional level in the European context. Social Dialogue between poles and strata of the post-industrial society. The role of institutionalized forms of negotiation and conciliation (mediation) in the maintenance of peace at various levels of social and industrial relations. The protection and protectors of the different subordinated (disadvantaged) interest groups, such as unemployed, aged people, disabled people and disadvantaged ethnic minorities in the process of social negotiations and reconciliation. The importance of the culture of negotiation and mediation and its role in the future of the countries of Central Eastern Europe in comparison to the highly developed industrial democracies.

**Week 2 July 30-August 3**

(Charles Nupen and Csilla Kollonay Lehoczky)

July 30

Conflict management options and approaches in labour management negotiations in transitional countries with highly polarized societies. The reflection of external tensions and conflicts in the organizational and operational structure of the company and the scale of possible reactions to emerging internal frictions. Optimal managerial and trade union attitudes in tensioned situations.

How to prevent disputes by balancing interests. Dispute prevention.

July 31

Involvement of third party into employment disputes. General views about third party involvement. Forms and possible outcomes of third party intervention. The need and limits of the involvement of public (state) institutions into the prevention or resolutions of labour disputes in a comparative analysis.

August 1

Mediation in individual disputes. The situation to be submitted to mediation. When is the need clear for involving a mediator? The way and main principles of selecting the mediator for a labour dispute. General preferences on the employer's and employee's side with respect to the person of the mediator and place of mediation. Who should be present at mediation? Preparation for mediation, documents and preparatory communications requested by the mediator.

August 2

The process of mediation in the case of organizational change. The involvement of managerial employees and employee representatives into the preparation of the decision making on the need for organizational change. Situation in need of mediation before and after the decision made on organizational changes. The extent of involvement of the hierarchical chain and horizontal relationships into the preparation and implementation of the decision. The form and role of the mediator.

August 3

Mediation in social conflicts beyond employment. Conciliation of interests of the various groups in need of social protection. Participation of affected social groups in economic and social policy making in transitory countries. The legal, social and political factors determining the room for negotiating and conciliatory techniques.

***Conflict Theory and its International Applications***

**(Richard Reuben)**

**Course Description**

This interdisciplinary course will introduce students to the wide array of theoretical approaches for understanding conflict and approaching dispute resolution. Students will explore the sources of conflict, the conditions that may cause conflict to be constructive or destructive, the nature of conflict escalation, stalemate, and de-escalation, negotiation theory and the barriers to negotiated settlement, and the relationship between conflict theory and the various approaches and processes for resolving disputes. The course will examine the application of theory to interpersonal, inter-ethnic, domestic and international conflicts. Students should come prepared for an interactive learning experience, as they will be called on to share their own experience of conflict to demonstrate the application of theory to Areal world@ disputes.

**Week 1: July 23 to July 27**

(Richard C. Reuben)

July 23. What Is the Nature of Conflict?

Introduction to the course and defining the starting point for the two weeks program.

We will seek to define conflict, and in so doing we will explore the different approaches to the source and nature of conflict in general. We will emphasize three basic schools of thought in this regard: individual characteristics theories, social process theories, and social structure theories. This class will also introduce the themes of international and cross-cultural -- particularly ethnic conflict – as the primary vehicles of illustration for the rest of the class.

July 24. Constructive Versus Destructive Conflict.

This class will examine the differences between conflicts and disputes, the desirability of conflict, the functions of conflict, and the conditions that facilitate conversion of conflicts from destructive to constructive, as we work toward a general framework for analyzing conflict.

July 25. Perceptions and the Development of Conflict

This class focuses on the role of perceptions in the development of conflict, underscoring the important psychological and related work that has been done with regard to our perceptions of ourselves and our perceptions of others. This discussion will include identity theory, attributional error, as well as the many variables and heuristics that can distort judgment in perceiving and responding to conflict. To better get a sense of how we relate to conflict, participants in the class will take a test on their conflict styles, which we will debrief as a group.

July 26. Conflict and Trust

This class introduces students to game theory as it relates to the nature and escalation of conflict, as well as the related literature on trust theory, competitive and cooperative strategies for dealing with differences. Students will also play and debrief a game set in the international context designed to illustrate these tensions.

July 27 The Escalation of Conflict

This class will analyze the nature of the escalation of conflict (emphasizing the capacity of our choices of conduct to contribute to escalation or de-escalation), and the concomitant ways in which conflict is transformed and changes structurally during the escalation process. The Cold War and other, more recent international conflicts, will serve as primary illustrative vehicles.

**Week 2 July 30-August 3**

(Richard C. Reuben)

July 30. Why Conflict Endures

This class will explore the mechanisms that tend to cause escalation to persist, focusing in particular on international and intranational ethnic conflict. Students will also participate in a role play to help illustrate the principles of escalation and persistence, which will be debriefed as a group.

July 31. Stability and Instability

We will discuss the concept of stability, and factors that contribute to the development or erosion of stability. Similarly, we also analyze the concepts of stalemate and de-escalation. There will be either a film or role play that will help illustrate the principles of stability, stalemate and de-escalation.

August 1. Conflict and Conflict Resolution

We will formalize the connection between conflict theory and the different methods of conflict resolution, including in particular negotiation, mediation, and multi-party consensus-building.

August 2. Pulling it All Together

This class will use a major international role play exercise to synthesize the various elements of the course, which will be debriefed at length by the group.

August 3. Moving Forward with Conflict Theory, as People and as Citizens

This final class will look at the relationship between conflict theory and democratic theory, in particular the consolidation of new and emerging democracies, and work toward a framework that will permit students to apply their conflict theory teachings in practice when they return to their home countries and resume their normal lives.