



## CEU Summer University

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### Legal Studies

## *Mediation and Other Methods to Foster Democratic Dialogue* *July 4 - 15, 2005*

Benjamin Cardozo School of Law and Hamline University School of Law  
*Professors James Coben, Kinga Göncz, Lela Love, and Dana Potockova*

**READING: MEDIATION: BEYOND THE ADVERSARIAL PROCESS, CARRIE MENKEL-MEADOW, LELA P. LOVE, ANDREA SCHNEIDER** (draft, for 2005 publication; comments and edits are most welcome!)

BREAKS WILL BE SCHEDULED DURING EACH CLASS PERIOD.

### **JULY 4, 2005, MONDAY**

**READING: CHAPTERS 1, 2, 3 AND 4** (to be done before the course begins)

9:00-12:15 **Introduction and Course Overview**

#### **Principles of Dispute Settlement**

Lecture and general discussion examining assumptions about dispute settlement, analyzing various dispute settlement methodologies, and exploring the role of mediation within that context.

#### **The Voluntary Resolution of Disputes**

Group exercise designed to illuminate the principles and dynamics underlying negotiation. The nature of the outcome, the importance of structuring the process, the role of information, preferences and priorities, the rationale of establishing trade-offs, the difference between interests and positions, and the facilitators and inhibitors of consensus-building will be stressed in the analysis.

12:15-1:30 LUNCH

1:30-2:10 **The Shift from Communism Towards the Rule of Law in Central and Eastern Europe: a Role for Mediation**

*Professor Csilla Kollonay Lebozky*

2:15-3:45 (Group A) 2:15-3:15 Library Tour A; 3:15-3:45 Computer Lab Tour

2:15-2:45 (Group B) 2:15-2:45 Computer Lab Tour; 3:15-4:15 Library Tour

7:00 Party at Kerepesi Dorm

#### **Assignment: Cross-cultural interviews.**

Working in groups of 4 or more, with students from as many different countries as possible, students will discuss and determine the most important similarities and differences between the national negotiating styles and other ways of resolving conflicts of the countries and cultures represented in the group. Each student should write a short (no more than 2 typed pages, double-spaced) summary describing lessons learned from this conversation. The written assignment is due in class on Friday, July 8, 2005.

## JULY 5, 2005, TUESDAY

**Reading:** Chapter 6; *Applying Collaborative Processes in Former Communist Countries*, KINGA GONCZ AND RAYMOND SHONHOLZ; *Ethnic Minorities in Hungary: Democracy and Conflict Resolution*, KINGA GONCZ AND SANDOR GESKO.

9:00-12:15 **The Mediator at Work**

A demonstration of how a mediator works to resolve a dispute.

**Overview of Mediation**

An examination of the various functions the mediator fulfills and the types of traits/interpersonal skills required of the persons discharging these functions.

**Beginning the Mediation Conference**

An examination of the impact of different seating arrangements. Participants will examine the components of an opening statement. Interpersonal skills with regard to eye contact, language use, and creating a structured but comfortable environment will be the focus of the analysis that follows.

12:15-1:30 LUNCH

1:30-2:10 **Collaborative Processes in Eastern and Central Eastern European Countries**

*Professor Kinga Göncz*

## JULY 6, 2005, WEDNESDAY

**READING:** CHAPTERS 6 AND 12; *Applying Collaborative Processes in Former Communist Countries*, KINGA GONCZ AND RAYMOND SHONHOLZ; *Ethnic Minorities in Hungary: Democracy and Conflict Resolution*, KINGA GONCZ AND SANDOR GESKO.

9:00-12:15 **Accumulating Information and Listening Constructively**

Demonstration and analysis focusing on fact-gathering techniques, note-taking skills, and questioning skills. Interactive exercises will illuminate the task of translating hostile and adversarial communication into building blocks of collaborative dialogue.

**Framing Interests and Issues to Construct the Agenda**

Lecture and discussion examining the mediator's role in, and responsibility for, identifying, framing and ordering the issues in dispute. Exercises will follow.

12:15-1:30 LUNCH

1:30-2:10 **Introduction to the Dynamics and Issues in Multi-Party, Multi-Ethnic Disputes**

A case study focusing on managing diverse components of multi-party disputes, from pre-negotiation arrangements through post-settlement closure.

*Professor Kinga Göncz*

## JULY 7, 2005, THURSDAY

**READING:** CHAPTER 6, 7 (DIVERSITY MATERIALS) AND 13 (DIVERSITY MATERIALS)

9:00-1:10 **Dealing Effectively with Diversity**

Discussion, analysis and exercises focusing on interpersonal and communication skills critical to facilitating dialogue in contexts in which issues of personal, cultural, gender and ethnic diversity are pervasive.

**Mediator Strategies for Generating Settlement**

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.

2:30 TOUR OF PARLIAMENT

## JULY 8, 2005, FRIDAY

**READING: CHAPTERS 1 (SECTION C) AND 6 (CAUCUS MATERIALS)**

9:00-1:10 **Meeting Separately with the Parties**

Examination of the purposes and strategies of meeting in caucus sessions with the parties. Participants will assume either the mediator's or a party's role and conduct a caucus. Analysis will follow.

**An Exploration of Justice and Dispute Resolution Processes: Qiu Ju** (a movie) (approximately 100 min.)

**Assignment:** Officer Li in *Qiu Ju* does several things that might be considered poor performance according to the mediator training and reading you have had in this course. Describe three moves Officer Li makes that have a negative impact on moving the dispute towards resolution; and 2) Think back to the scene where the village chief Wang Shantang fulfills his obligation to make a monetary payment to Qiu Ju by throwing the money at her feet. If you were a mediator assisting these two parties and you witnessed this exchange, how would you respond? **The written assignment is due in class on Tuesday, July 12.** (maximum of 500 words/approximately 2 typewritten pages, double-spaced and using standard fonts and margins).

## JULY 9, 2005, SATURDAY

NO CLASSES

## JULY 10, 2005, SUNDAY

NO CLASSES

10:00-4:00 BOAT TRIP TO SZENTENDRE (optional)

## JULY 11, 2005, MONDAY

**READING: CHAPTER 12**

9:00-1:10 **Considerations and Strategies in Dealing with Complex Cases**

Professors will "accompany" participants through a conflict analysis to determine the propriety and nature of a mediation intervention in a multi-party, multi-ethnic community conflict. Elements of the analysis will include: party identification; ripeness for intervention; mediator qualifications relevant for effective service; and pre-dispute entry issues and responsibilities. In small groups, participants will analyze a case study to develop performance skills for conducting a multiparty mediation. Elements of the analysis will include: structuring the sessions, capitalizing on role of advocates and spokespersons, planning considerations when cultural diversity is present, and using translators effectively.

## JULY 12, 2005, TUESDAY

**READING: CHAPTERS 6 (SECTION E, CO-MEDIATION) 8, 9 AND APPENDICES A (UMA) AND B (MODEL STANDARDS)**

9:00-1:10 **Ethics in Mediation**

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

**Co-Mediation Orientation**

Discussion and analysis of strengths and weaknesses of a co-mediation approach and the principles guiding the effective execution of team mediation. Practice will follow.

2:30 TOUR OF COURTS

## JULY 13, 2005, WEDNESDAY

**READING: CHAPTER 6 (SECTION B 6, DRAFTING AGREEMENTS AND CLOSING THE SESSION)**

9:00-1:10 **Bringing Closure to the Session**

Discussion and exercises regarding the procedure for and components of the construction of a mediation agreement. Strategies for effectively closing a session will be explored and practiced.

**Writing an Effective Agreement**

Discussion and exercises regarding what should or should not be committed to the written agreement. Particular attention will be focused on format, language, "traps" to avoid, and other principles of good drafting.

## JULY 14, 2005, THURSDAY

**READING: CHAPTERS 6 (REVIEW!) AND 12 (SECTION D, FACILITATION SKILLS)**

9:00-1:10 **Facilitation Skills and Techniques to Foster Constructive Dialogue**

An examination of the relationship between facilitation and mediation and of the tasks and tools used by facilitators. Practice will follow.

**Mediation Review**

A critical review of a mediation session.

**Dispute Resolution in Eastern Europe**

*Professor Dana Potockova*

**Working Lunch/Building a Career in Dispute Resolution (optional)**

Informal discussion and advice regarding study and business-building opportunities in the field of conflict resolution.

## JULY 15, 2005, FRIDAY

**READING: CHAPTER 14**

9:00-1:10 **Mediation Simulations**

Participants will conduct a complete mediation conference, beginning with the opening statement and concluding with the written agreement. Both participants and professors will provide feedback to the mediator. Analysis will follow completion of each simulation.

**Reflections and Closure**

2:30-4:30 **Final Paper**

Students will write an in-class, open-book analysis of their final mediation simulation in which they served as the mediator and respond to other question(s). Preparation: Review mediator training material.