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Global Perspectives on Appropriate Dispute Resolution (ADR)

In co-operation with Benjamin N. Cardozo School of Law, New York

and Hamline University School of Law, Minnesota

July 4-15, 2005

Course Directors: **Lela Love**, Kukin Program for Conflict Resolution, Benjamin N. Cardozo School of Law/Yeshiva University
James Coben, Dispute Resolution Institute, Hamline University School of Law

Faculty: **Olga Botcharova**, National Conference for Community and Justice, Boston, Massachusetts
Kinga Göncz, Ministry of Health, Social and Family Affairs for Hungary
Penelope Harley, Hamline University School of Law
Csilla Kollonay Lehoczky, Central European University, Legal Studies Department
Dana Potockova, Conflict Management International, Prague
Howard Vogel, Hamline University School of Law

Please note that participation in the advanced track is on a fee-paying basis, however, a limited number of scholarships are available for participants from countries of emerging democracies.

Lela Love is Professor of Law and Director of the Kukin Program for Conflict Resolution at Benjamin N. Cardozo School of Law/Yeshiva University. Professor Love has served as a mediator, arbitrator, and dispute resolution consultant in a variety of community, family, commercial and public disputes. In 1993, she was awarded a citation by the City of Glen Cove for successfully mediating a long-standing dispute between the city and its Salvadoran community. Professor Love co-chairs the Committee on Qualifications and Training for Neutral's for New York's Unified Court System. She has assisted the State of Florida in implementing its mediator qualification requirements; developed a program for training mediator trainers and a teaching manual for the State of Michigan; and written a mediator's manual for a mandatory mediation program for Louisiana's Office of Workers' Compensation. Professor Love received her J.D. from Georgetown University in 1979, her M.Ed. from Virginia Commonwealth University in 1975, and her B.A. from Harvard University in 1973.

James Coben is Associate Professor and Director of the Dispute Resolution Institute at Hamline University School of Law. During the last decade, Professor Coben has pioneered a variety of innovative ADR clinical opportunities for law students, including mediation advocacy on behalf of clients in family law and employment cases. In addition to his law school teaching responsibilities, Professor Coben is a member of the Minnesota Supreme Court's ADR Review Board, charged with regulating the performance of court-appointed neutrals. He has published numerous ADR related articles and currently is the domestic mediation editor for the *World Arbitration & Mediation Report*, and previously served on the editorial board and as ethics columnist for the *Journal of Alternative Dispute Resolution in Employment*. Professor Coben is a former chair of the ADR Section of the Association of American Law Schools ("AALS"). He received his J.D. from Northeastern University School of Law in 1986 and his B.A. from Williams College in 1979.

Olga Botcharova is Program Director for the Dialogue Against Violence Project of the National Conference for Community and Justice, where she develops international programs for conflict resolution and leads pilot training projects for young leaders of world communities in crisis. For the last six years she also has been working as a facilitator for Seeds Of Peace, leading dialogues on co-existence between Greek and Turkish Cypriot youth and young people from Israel, Palestine, and other Arab countries, as well as youth from across the Balkans, India and Pakistan. From 1993-2000, while working as a Fellow at the Center of Strategic and International Studies (CSIS) in Washington D.C., Ms. Botcharova designed workshops and facilitated dialogues for leaders of hostile ethnic/religious communities of Bosnia, Serbia and Croatia (Muslims, Catholics and Orthodox) with the goal of encouraging their participation in peacemaking and community rebuilding. Ms. Botcharova earned her M.A. in social psychology from the St. Petersburg Polytechnic University in 1992, and her B.A. from St. Petersburg State University in 1978.

Kinga Göncz is the Minister of Health, Social and Family Affairs in Hungary. Formerly she served as Executive Director of the Partners Hungary Foundation and a Lecturer at Eötvös Loránd University. Dr. Göncz has extensively published in the field of social work supervision and training. She also maintains an active private practice in psychotherapy. She is a Member of the Board of the Soros Foundation and Director of the Board of the Foundation for Self Reliance. She has been a Visiting Scholar at the University of Michigan School of Social Work and a Lecturer in the Mandel School of Applied Social Sciences at Case Western University, in Cleveland, Ohio. Dr. Göncz earned Degrees in Psychotherapy (1986) and Psychiatry (1978) from the Budapest Institute for Postgraduate Medical Training, and her M.D. from the Semmelweis Medical University, Budapest in 1972.

Penelope Harley is an adjunct professor at Hamline University School of Law, having first joined the faculty in August 2002 as the Dispute Resolution Institute's inaugural Postgraduate Fellow. Her work focuses on addressing endemic harms in local, national and international arenas. While completing her Politics, Philosophy and Economics degree at Oxford University, Penelope concentrated her studies in the field of International Relations and opted to write a thesis on Palestinian Education Under Occupation for which she was awarded the Muhammed Yarbush Award for Arab Studies. In 1986, she went to Jerusalem as a Rotary Foundation Scholar to study Arabic at Birzeit University on the West Bank. Prior to moving to the United States in 1999, Penelope worked in education in London for ten years, pioneering an academic tutorial system and developing Health and Social Education curricula at a large inner city high school. Professor Harley earned her J.D. from Hamline University School of Law in 2002, her M.A. in Education Management from London University in 1998, and her B.A. from Oxford University in 1986.

Csilla Kollonay Lehoczky is a Professor of Law at the Central European University (CEU) and also serves on the Faculty of Law at Eötvös Loránd University (ELTE), where she has been teaching since 1969. In 1990-91, Professor Lehoczky was a Fulbright professor at Stanford Law School. From 1991 through 1995, she served as associate dean in charge of international and academic affairs at the ELTE Law School. From 1992-1997, she served as chair of the ELTE labor law department. From 1997-2000 and in 2002-2003, Professor Lehoczky served as Dean of the Legal Studies Department at CEU. Professor Lehoczky has been active as a board member or advisor in a number of professional and civil organizations active in the field of labor law, industrial relations, as well as in the areas of minority and gender protection. She has published numerous articles in the field of labor law. Professor Lehoczky earned a Ph.D. from the Hungarian Academy of Sciences in 1987 and her J.D. from Eötvös Loránd University in 1968.

Dana Potockova received a Masters in Dispute Resolution from Pepperdine University School of Law (USA), a Masters in Peace Studies from the University of Notre Dame (USA), and a Masters in Social Policy from Charles University (Czech Republic). A former Fulbright scholar, she is the co-founder of the Czech Association of Mediators. As the principal of Conflict Management International, she is currently a consultant for dispute resolution systems design and a conflict resolution trainer and teacher. She has served as a trainer for Partners for Democratic Change in the Czech Republic where she also facilitated public meetings in situations involving ethnic tension.

Howard Vogel is Professor of Law at Hamline University School of Law, where he also directs the Project on Reflecting on Law as Vocation. He teaches Constitutional Law, International Human Rights Law, and Restorative Justice along with three innovative seminars that explore the meaning of professional identity in the practice of law and the promise of restorative justice practices as an approach to cultural conflict. Since 1989 he has served as one of the editors of the *Journal of Law and Religion*. For over twenty years he has been an active member of the Society of Christian Ethics and is co-founder and current co-convenor of the Restorative Justice Interest Group of the Society. Vogel's scholarly work is centered at the intersection of law, religion and ethics with a focus on law as vocation and the promise of Christian ethics for addressing problems of cultural conflict. Of special interest in this work are disputes over minority rights, protection of Native American sacred sites on public land, and reparations as a means for securing racial reconciliation in the American republic. Professor Vogel earned his M.A. in Religious Studies from the United Theological Seminary of the Twin Cities in 1978, his J.D. from the University of Minnesota in 1970, and his B.A. from the University of Minnesota in 1963.

COURSE OBJECTIVES

This course is designed to facilitate the exchange of ideas and cooperative projects among academics, professionals and students in the East and West who are pursuing the study of conflict and conflict resolution processes. The program, set in the context of Central and Eastern Europe's emerging democracies, will focus on mediation, democratic dialogue, and restorative justice, as well as other consensual methods for addressing and resolving conflict and promoting understanding between peoples.

In the introductory track mediation course, 30 CEU participants will be joined by 30 American law students and scholars to explore these topics. The advanced track restorative justice course will take a maximum of 24 students, half from CEU and half from American law and graduate schools. Both courses will offer multi-national perspectives and examples. This program will enable students to critically examine the challenges of the design and delivery of ADR (appropriate dispute resolution) initiatives in multiple contexts, including countries where the "rule of law" still is being established

Applicants have the following options:

- apply for the introductory track mediation course (for students without prior course experience in mediation)
- apply for the advanced track course in restorative justice (for students with theory and practice background in mediation or with a special interest in restorative justice)

Please clearly indicate in your statement of purpose which option you are applying for: introductory track mediation course, or the advanced track course in restorative justice.

INTRODUCTORY TRACK

MEDIATION AND OTHER METHODS TO FOSTER DEMOCRATIC DIALOGUE

Faculty: James Coben, Kinga Göncz, Csilla Kollonay Lehoczky, Lela Love, Dana Potockova

For students without prior course experience in mediation.

Through lecture, discussion, demonstration and role-play, 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 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. Analysis will highlight persuasive techniques for moving parties from impasse to settlement. Special attention will be directed to the ethical dilemmas faced by mediators, particularly challenges to a mediator's impartiality, and the potential for abuse of discretion and power. The course also will 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 ONE

MONDAY

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 procedures. The class concludes with a lecture on the shift from communism towards the rule of law in Central and Eastern Europe and the role of mediation and consensual dispute resolution processes in that transition (offered to students in both the introductory and advanced track courses).

TUESDAY

An Overview of the Mediation Process and Related Mediator Skills. Beginning the Mediation Conference

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 presentation on how mediators create a constructive environment and open a session will be followed by practice. The class concludes with a lecture summarizing the use of collaborative dispute resolution processes in former communist countries (offered to students in both the introductory and advanced track courses).

WEDNESDAY

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.

THURSDAY

Dealing Effectively with Diversity and Generating Movement Towards Understanding and Agreement

Discussion, analysis and exercises focusing on interpersonal and communication skills critical to facilitating dialogue in contexts in which issues of cultural, gender and ethnic diversity are pervasive. 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. An afternoon presentation on case studies from Hungary will explore the dynamics of multi-party and multi-ethnic disputes (offered to students in both the introductory and advanced track courses).

FRIDAY

Considerations and Strategies in Dealing with Complex, Multi-Ethnic 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. The class will view and analyze a movie portraying a variety of conflict resolution processes.

WEEK TWO

MONDAY

Meeting Separately with the Parties and Working with a Mediation Team

An examination of the purposes and strategies of meeting in caucus sessions with the parties. 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.

TUESDAY

Using Facilitation to Foster Democratic and Constructive Dialogue

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

WEDNESDAY

Bringing Closure to Sessions and Capturing Agreements between Parties

Participants will review procedures for closing a mediation session and drafting mediation agreements.

THURSDAY

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. A critical review of a mediation session will follow. A working lunch will follow class in which Professor Potockova from the Czech Republic will explore study and business-building opportunities in the field of conflict resolution (offered to students in both the introductory and advanced track courses).

FRIDAY

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.

ADVANCED TRACK
A CHANCE TO REFORM, A CHANCE TO HEAL:
EXPLORING THE POTENTIAL OF RESTORATIVE JUSTICE
Faculty: Olga Botcharova, Penelope Harley, Howard Vogel

For students with theory and practice background in mediation and negotiation

Restorative justice offers a different framework for thinking about wrongdoing. It moves beyond the confines of traditional justice systems to embrace social justice principles. Restorative justice acknowledges the damaged relationships that result from any wrongdoing and focuses on healing for all those involved. This course will offer students an opportunity to study the four leading restorative justice practices and explore the possibilities restorative justice offers to move beyond the limitations of retributive justice and towards a view which recognizes the importance of forgiveness, reconciliation and social healing in a variety of contexts. The first week of the course will concentrate on the potential for restorative justice practices to encourage reform of judicial systems. The second week of the course will examine the opportunities restorative justice practices and principles offer to address the individual and collective pain associated with profound ethnic conflict. Through case study and dialogue exercises students will be invited to draw on their own experience of conflict as they explore the dynamics of cultural conflict. The class will be highly experiential in nature with the practice of the talking circle serving as a core modality for class discussion.

WEEK ONE
A Chance to Reform

MONDAY

Restorative Justice Principles

Introduction to and consideration of the principles underlying Restorative Justice. The class concludes with a lecture on the shift from communism towards the rule of law in Central and Eastern Europe and the role of mediation and consensual dispute resolution processes in that transition (offered to students in both the introductory and advanced track courses).

TUESDAY

The Circle Process and the Criminal Justice System

Through lecture, discussion and group activities, the class will explore the main components of the circle process: ritual, the importance of values, the use of the talking piece, the role of the circle keeper, and the notion of consensus-based decision making. A review of circle processes regularly used in the criminal justice system then follows, including examination of circles of understanding, circles of healing, sentencing circles, and transition circles. The class concludes with a lecture summarizing the use of collaborative dispute resolution processes in former communist countries (offered to students in both the introductory and advanced track courses).

WEDNESDAY

Victim-Offender Mediation

Students will view and discuss videos illustrating the practice of victim-offender mediation. The possibilities and/or limits of this process, especially its applicability to crimes of serious violence, will be explored.

THURSDAY

Restorative Justice for Juveniles and Family-Group Conferencing

Overview of the different models of family-group conferencing and their applications. Close examination of the New Zealand experience and consideration of the viability and desirability of a totally alternative juvenile justice system. An afternoon presentation on case studies from Hungary will explore the dynamics of multi-party and multi-ethnic disputes (offered to students in both the introductory and advanced track courses).

FRIDAY

Taking Stock, Considering Challenges

A chance to reflect on the course so far prior to transition to cross-cultural and international dimensions. Consideration of the interface between restorative justice and mediation. Examination of the critiques and challenges facing restorative justice.

WEEK TWO
A Chance to Heal

MONDAY

Steps to Reconciliation

Examination of the limits of official diplomacy. Development of a multi-step model for conflict management offering a path from revenge to reconciliation.

TUESDAY

Forgiveness and the South African Truth Commission Experience

Introduction to the Truth and Reconciliation Commission. Identify and reflect on the meaning and possibilities of forgiveness in the face of deep and violent cultural conflict.

WEDNESDAY

Truth Commissions Around the World: The Critical Issues

Identify and reflect on the significance of historical and cultural context in the character of truth commissions. Consideration of the nature of 'truth' in the context of violent cultural conflict.

THURSDAY

Applying Restorative Justice Principles I

Exploration of the applicability of all principles and practices considered to multi-ethnic conflicts with special attention to Eastern and Central Europe. A working lunch will follow class in which Professor Potockova from the Czech Republic will explore study and business-building opportunities in the field of conflict resolution (offered to students in both the introductory and advanced track courses).

FRIDAY

Applying Restorative Justice Principles II

Students will apply principles and practices they have studied to a conflict of their choice. Course closure and evaluation.

For more detailed biographies, updated course description, syllabus, reading lists please check
<http://www.ceu.hu/sun>