Module Title: Comparative Freedom of Expression
Credit Points: 10 ECTS / 20 UK credits

Overview:
This module offers an introduction to the right to freedom of expression and the opportunity to study its protection in a comparative perspective. The course has three main focuses. It begins by exploring some recurring questions about the basis of the right with a view to developing a theoretical perspective on the purpose of the protection of expression. Having created this conceptual point of reference, the course analyses the nature and theoretical implications of a number of common restrictions on freedom of expression. This analysis will consider how different common law and civil law jurisdictions approach particular forms of troublesome expression and what might be taken from the apparent similarities and divergences encountered. The final part of the course will examine freedom of expression in three functional contexts: in relation to the role of the media, the internet and election campaigning.

Aims (To provide students with):
- an understanding of the theoretical background to the protection of freedom of expression
- a knowledge of the various legal methods by which freedom of expression may be limited
- the ability to draw comparisons and distinctions between the comparative treatment of freedom of expression in different jurisdictions
- the ability to analyze the principles of freedom of expression and the justifications for restrictions in a number of specific situations

Module Content
- The Nature and the Scope of Freedom of Expression
    - Examine the nature and purpose of the freedom of expression
    - Review the justifications for freedom of expression and consider how to place the right in its social context.
    - Freedom of expression in personal autonomy and self-flourishing.
    - Assess the significance of freedom of expression an agent of political change and as a means of protecting against the misuse of power
- Public Policy Restraint - Contempt of Court
    - Freedom of expression as it relates to the judicial process
    - Balance between freedom of speech and the administration of justice
    - Offence of causing prejudice to legal proceedings
- Public Policy Restraint- Blasphemy
    - Examine the manner in which the offence of blasphemy has been treated by the courts
    - Compare British approach (R v Lemon) with US approach (Cantwell v Connecticut) Consider the role of the crime of blasphemy in a modern society
- Public Policy Restraint- Obscenity
    - Examine the test for obscenity - morality based test for obscenity as established by the US Supreme Court in Miller v California versus the Canadian “avoidance of harm” test in R v Butler
    - Can pornography be considered speech?
- Public Policy Restraint-State Security
    - Restriction of political speech in the interest of national security or territorial integrity
    - Restriction of political speech in the interest of protecting a society from imminent outbreak of lawless action
    - Restriction of subversive speech in Israel and the treatment of Turkey’s restrictions by the ECHR
- Public Policy Restraint- Racist Hate Speech
    - What constitutes speech – does it include ‘hate speech’?
    - Compare Canadian and US approach with that of Germany
    - Consider what restrictions can be put on race hate speech coming within the definition of speech

    - Should the law all ideas to compete in the marketplace thus resulting in the attainment of truth or does allowing statements which promote hatred against a particular group contributes to the development of prejudice and discrimination in society generally
- Privacy & Freedom of Speech
    - Examine the balance between the public's right to be informed of matters of general interest and an individual's right to personal privacy
    - Consider the effects of privacy on the publication of photographs and whether there should be a limitation on the inaccurate representations of individuals
    - Right to privacy of public figures
- Defamation
    - Examine the balance between the right to a reputation as protected by defamation laws and freedom of expression.
    - The different approaches taken in a number of jurisdictions will be analyzed
- Protest and Public Order
    - Examine the relationship between freedom of assembly and freedom of speech and the effects of an overlap
    - What amounts to an expressive speech
    - How can limitations be placed on the right such as hate speech or public order laws
    - Consider what is the 'public fora'
- Freedom of Expression in Context: Freedom of Speech and the Media
    - What is the role of the media in relation to freedom of expression
    - Does the media act as a public watchdog – does this mean it should be treated distinctively
    - Examine the position of journalists, editors and the owners of newspapers and other media outlets.
    - Does the press have a right to access to information
    - Privilege not to disclose sources of information.

Indicative Reading

- Barendt, E., 2007. Freedom of Speech 2nd ed., OUP Oxford.
- Bollinger, L.C., 2003. Eternally Vigilant: Free Speech in the Modern Era New edition., Chicago University Press.
- Feldman, D., 2002. Civil Liberties and Human Rights in England and Wales 2nd ed., Oxford University Press.

Assessment methods

70% Exam
30% Thesis