

# London South Bank University

Module guide  
CIVIL RIGHTS AND THE STATE



Faculty of Arts and Human Sciences  
2015-2016

<b>UNIT TITLE</b>	CIVIL RIGHTS AND THE STATE
<b>LEVEL</b>	3
<b>REFERENCE NUMBER</b>	LLB-3-CRS
<b>NUMBER OF CREDITS</b>	1
<b>STUDENT STUDY TIME</b>	150
Contact hours:	Full-time mode - 36 hours; Part-time mode – 33 hours
Student managed hours:	Full-time mode – 114 hours; Part-time mode– 117 hours
<b>PREREQUISITES</b>	None
<b>EXCLUDED COMBINATIONS</b>	None
<b>PARENT SCHOOL</b>	Faculty of Art and Human Sciences
<b>PARENT COURSE</b>	LL.B
<b>UNIT COORDINATOR</b>	Nina Tiagi Room K 320 0171 815 7081 <a href="mailto:tiagin@lsbu.ac.uk">tiagin@lsbu.ac.uk</a>

### **INTRODUCTION TO THE UNIT: SHORT DESCRIPTION**

This unit is designed to allow students to examine and consider the response of the state to threats posed by crime, terrorism, strikes and other types of civil and political emergencies and unrest and the impact on a citizen's civil rights. Students are encouraged to consider the social, economic and political context within which the law operates.

### **AIMS**

This unit aims to:

1. provide students with an in depth coverage of the principles relating to police powers and the powers of the state in relation to policing, terrorism and emergency powers;
2. critically evaluate the relationship between the individual citizen, the police, local and central government;

3. explore the philosophical, conceptual and policy issues involved;
4. broaden and encourage an appreciation of the wider social, economic and political context within which the police and government operate;
5. examine the practical problems of enforcing individual civil rights;
6. further develop the skills required for independent research, analysis and problem solving of complex legal problems;
7. build upon other courses, especially Constitutional and Administrative Law and Criminal Law. It enables students to develop a particular area of expertise in the human rights/civil rights field by taking Civil Rights and the Individual as a year two option and studying European Human Rights in the second semester of the third year. The course thus provides both vertical and horizontal links through the degree.

## **LEARNING OUTCOMES**

### **Knowledge and understanding**

Students successfully completing this unit will be able to demonstrate a knowledge and understanding of:

- (a) the operation of the principles of criminal or civil liability in English law in the context of the areas covered by this unit;
- (b) the debates and criticisms relating to the areas covered by this unit including the practical problems of enforcement of rights;
- (c) the use of principles of liability in order to construct opposing arguments.

### **SKILLS**

#### **Legal skills**

Students successfully completing this unit will be able to demonstrate an ability to:

- (a) assimilate and evaluate complex legal materials from a range of sources
- (b) accurately analyse a complex factual problem and isolate the issues of liability to which it gives rise;
- (c) persuasively and cogently argue how the relevant law should be applied to the resolution of a given problem, applying rules of precedent and statutory interpretation

as appropriate;

(d) competently carry out legal research, involving use of original sources, required for the preparation of advice arising from a given set of facts.

### **Transferable skills**

Students successfully completing this unit will have demonstrated an ability to:

(a) organise, plan and prioritise self-managed scholarly work using original materials;

(b) prepare materials according to assignment briefings to meet time critical deadlines

(c) evaluate and assess opposing arguments with a view to rationalising stated preferences for a given line of reasoning, supported by authority and appropriate evidence

(d) evaluate and assess issues in their relevant context, having regard to relevant philosophical or other contextual issues

(e) work independently.

### **Practical skills**

Students successfully completing this unit will have demonstrated the development of:

(a) communication skills – through participation in seminar discussions and argument; by preparing, planning and analysing a complex legal problem or issue.

(b) IT skills - through the research required in preparation for; use of electronic information retrieval systems in preparation for seminars; e-mail communication with teaching staff;

(c) skills for learning how to learn – the teaching, materials direct students to a range of sources that can be utilised to develop their subject knowledge and further their interest in the unit - on completion of the unit students should be able to conduct basic independent problem solving tasks. Diagrams and flow charts are used as an aid to learning and analysis of issues and problems.

## **TEACHING AND LEARNING PATTERNS**

### **FULL-TIME MODE**

Weeks 1 to 12 : One 2 hour lecture per week  
: One hourly seminar per week

Weeks 13 to 15 : Private study and examinations.

The lectures will cover the main themes, issues and principles. The discussion of seminar topics and problems are based on handouts accompanying the guide that the students are given in advance. The questions will explore the contextual theoretical, policy, social and political issues and proposals for reform; as well as complex legal problems that require analysis of the law and an appreciation of the problems of enforcement. A number of questions from past examinations are included for discussion in seminars. This is to ensure that students are given the opportunity to develop the appropriate level of knowledge, analysis, problem solving skills and critical evaluation required.

### **PRIVATE STUDY TIME**

Students are informed what areas they are required to study in their own time, in addition to reading around the materials covered in lectures. Some of these issues are then considered in seminars thereby allowing students the opportunity to research areas using their own initiative. It is essential that students undertake the additional private study work as assessments are designed and marked on the basis that the extra material has been covered.

### **INDICATIVE SYLLABUS CONTENT**

#### Conceptual issues.

The course unit is introduced by considering conceptual and philosophical issues relating to civil rights, state power, the rule of law and civil disobedience. The constitutional protection of civil rights.

#### 1. Police Powers

- 1.1 The constitutional position of the police, the tripartite constitutional relationship between the police, local authorities and the government. Police accountability; the role of chief constables and accountability for the actions of individual police officers: civil and criminal actions against the police, complaints and disciplinary procedures. The role of security forces. Co-operation with European and other law enforcement agencies.
- 1.2 Preliminary investigations: the extent of the citizen's duty to co-operate with police enquiries. The powers of the police and other law enforcement agencies to intercept communications and carry out covert investigatory operations.
- 1.3 Detention short of arrest: powers to stop, powers to stop and search

- 1.4 Arrest without warrant
- 1.5 Entry search and seizure without warrant and exclusion of evidence.
- 1.6 Detention, questioning and treatment of persons by the police: rights and safeguards of detainees, adverse inferences from silence, admissions and exclusion of evidence.

## 2. Public Order

- 2.1 Controlling public meetings and processions: banning orders, imposition of conditions, advance notices, binding over.
- 2.2 Public order offences and the powers of the police.
- 2.3 The main public order offences are contained in the Public Order Act 1986, however there are a plethora of other offences e.g. obstruction of the highway or of the police in the execution of their duty. The powers of the police are wide especially in relation to breach of the peace and other powers to arrest without warrant, including the imposition of bail conditions once a person is charged.

## 3. Emergency Powers

- 3.1 States of emergency: the use of war-time powers as well as the use of troops in peace-time to deal with industrial disputes and natural emergencies. The wide discretionary powers of the executive.
- 3.2 Terrorism: Northern Ireland the introduction and use of the powers relating to terrorism. The discretionary powers of the executive, the wide powers of the police and the armed forces, the insidious impact of these measures on the ordinary law.

### **ASSESSMENT METHOD:**

The course work constitutes 100% of the marks with a maximum of 6,000 words.  
The unit pass mark is 40%.

Twelve, weekly, large group sessions are given to introduce key topics.

The large group session topics introduce students to broad individual civil rights themes (freedom of expression and freedom from discrimination etc.).

Students select a topic from a broad individual civil rights theme as the basis of the subject for their extended coursework. The precise scope of the coursework is negotiated between the student and the tutor.

Students are expected to research their topic in the context of their chosen theme prior to the small group sessions. Weekly hour long small group sessions are used to explore the topics chosen by the students.

Students' preparation & learning for whole group and small groups sessions are supported by materials and online materials accessed through the Civil Rights and the Individual Moodle site.

Large and small group sessions make time available to review and discuss progress on planning, researching and writing the coursework.

With the introduction of the new VLE we are moving towards a fully online submission, marking and feedback process. To start off this process, from September 2014 we will require all assignments that can be submitted electronically, to be submitted via the VLE. Online marking, and the return of marks and feedback to students via the VLE is not planned to happen until September 2015.

### **WARNING**

You must ensure that the work you submit is your own.

Merely copying out of a textbook or other materials will be severely penalised. However, limited reference to a textbook or other materials is permitted if properly referenced. Any reference to materials, directly or indirectly, must be fully cited and footnoted. See the *LLB/ CD Course Guide for examples of academic misconduct including collusion and penalties*.

## **LEARNER SUPPORT MATERIALS**

### **READING LIST**

#### **CORE TEXTS**

**Stone:** Textbook on Civil Liberties & Human Rights [Oxford University Press] 2014

#### **Additional Reading**

Helen Fenwick, Gavin Phillipson: Text, Cases and Materials on Public Law and Human Rights 3rd edition 2010.

#### **Background Reading**

Oxford Handbook of Criminology ed Reiner

Political Killings in Northern Ireland: Amnesty International

J. S. Mill: On Liberty

D.D. Raphael [ed]: Political Theory and the Rights of Man

R. Dworkin: Taking rights seriously

R. Gaete: Human Rights and the Limits of Critical Reasoning

### **WEBSITES**

European Court of Human Rights - [www.dhcour.coe.fr](http://www.dhcour.coe.fr)

Europol - [europol.eu/int](http://europol.eu/int)

Home Office - [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

access to police websites: [www.police.uk](http://www.police.uk), [www.acpo.police.uk](http://www.acpo.police.uk), [www.ncis.org.uk](http://www.ncis.org.uk),  
[www.nationalcrimesquad.police.uk](http://www.nationalcrimesquad.police.uk), [www.met.police.uk](http://www.met.police.uk)

HMSO - [www.Officialdocuments.co.uk](http://www.Officialdocuments.co.uk)

Lawtel [LTL] – access through LISA

MI5 - [www.mi5.gov.uk](http://www.mi5.gov.uk)

PCA - [pca.gov.uk](http://pca.gov.uk)

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### **MOODLE**

This unit will be supported by a Moodle site. This is a 'VLE' (virtual learning environment) website that you can access from any computer connected to the internet. On the site you will find all the unit documents and handouts for downloading for your personal use. In addition you will find information about assessments, unit announcements, useful web links and links to related news stories.

### **MODULE GUIDE STATEMENT ON THE THREE ATTEMPTS RULE AND THE SIX YEAR COMPLETION RULE.**

'All students are reminded of the Joint Academic Standards Board (JASB) regulations regarding Qualifying Law Degrees. A Qualifying Law Degree (QLD) is a pre-requisite for anyone wanting to seek qualification as a Barrister or Solicitor.

(i). These regulations require the Foundations of Legal Knowledge subjects to be passed in no more than three attempts as well as requiring students to complete their degree within six years. At LSBU, students who are not eligible for a QLD are transferred onto the BA Legal Studies, which is a non-qualifying law degree (NQLD). It is not normally possible for students with a NQLD to go on and take the vocational courses to qualify as a solicitor or barrister.

(ii) Students who are awarded a NQLD may apply to the Solicitors Regulation Authority (SRA) or the Bar Standards Board (BSB) for exceptional condonation, or to be allowed to take the failed Foundation of Legal Knowledge subject(s) again on a CPE/GLD course. The Law Department cannot assist students in this application and they will need to deal direct with either the SRA or BSB as appropriate.

[www.sra.org.uk](http://www.sra.org.uk)

[www.barstandardsboard.org.uk](http://www.barstandardsboard.org.uk)

(iii) Further information about QLD's, the foundation subjects and the rules on completion of the law degree can be found on the JASB website at the following link.  
[https://www.barstandardsboard.org.uk/media/1472203/joint-academic-stage-board-handbook\\_-\\_nov\\_2012.pdf](https://www.barstandardsboard.org.uk/media/1472203/joint-academic-stage-board-handbook_-_nov_2012.pdf)

All students are also reminded of the University Academic Regulations, which only allow students to enroll twice on any module. If the module is not passed within two enrolments (two years) then, normally, this will result in a termination of studies. The University Academic Regulations can be found on the University intranet..

### **COURSE OF STUDY - SEMESTER 2**

<b>WEEK NO.</b>	<b><u>DATE - W/C</u></b>	<b><u>LECTURE TOPIC</u></b>	<b><u>SEMINAR TOPIC</u></b>
1	1 February	CONCEPTS/ HUMAN RIGHTS ACT	
2	8 February	POLICE: INTRODUCTION PRELIMINARY INVESTIGATION	CONCEPTS/HRA
3	15 February	DETENTION SHORT OF ARREST	POLICE:INTRO PRELIMINARY INVESTIGATION
4	22 February	ARREST ENTRY, SEARCH & SEIZURE	DETENTION SHORT OF ARREST
5	29 February	DISPOSITION ON ARREST REMEDIES & ACCOUNTABILITY	ARREST and ENTRY, SEARCH & SEIZURE
6	7 March	TERRORISM THE ASSESSMENT	DISPOSITION ON ARREST & REMEDIES & ACCOUNTABILITY
7	14 March	Meeting with module leader	TERRORISM
		<b>EASTER</b>	<b>VACATION</b>
8 onwards	11 April	Self-study for assessment	Self-study for assessment
		<b>Submission of assessment Thursday 12 May</b>	

### **SEMINAR QUESTIONS**

These are contained in the course materials at the end of each hand out on a topic.