

**LAWS 2105 Sections A & B - Social Justice and Human Rights  
Course Outline**

**PREREQUISITES:** Second year standing

**TERM:** Fall 2012

**SECTION A:** Day & Time: Thursday, 2:35-5:25  
Room: Please check Carleton Central for current room location.

**SECTION B:** Day & Time: Tuesday, 8:35-11:25  
Room: Please check Carleton Central for current room location.

**INSTRUCTOR:** Dr. Amy Bartholomew

**CONTACT:** Office: Loeb D 581

**OFFICE HOURS:** Thursday, 12:00 to 1:30  
Email: [Amy.Bartholomew@carleton.ca](mailto:Amy.Bartholomew@carleton.ca)  
Telephone: 613 520-2600 x. 3696

**Please use my email address, above, to contact me rather than webct or telephone messages, when possible.**

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You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

**Pregnancy obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

**Religious obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

**Academic Accommodations for Students with Disabilities:** The **Paul Menton Centre** for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or [pmc@carleton.ca](mailto:pmc@carleton.ca) for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your **Letter of Accommodation** at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (*if applicable*). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (*if applicable*) at <http://www2.carleton.ca/pmc/new-and-current-students/dates-and-deadlines/>

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://www2.carleton.ca/equity/>

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## **COURSE DESCRIPTION**

How should human rights obligations be conceptualized, institutionalized and enforced? What are the bounds of global justice? What role does and what role should international law play in securing human rights and justice? How do international law and domestic law interact in the context of human rights?

In this course, we will consider these sorts of questions by examining the extent to which there has been a shift away from the traditional statist paradigm of international law and human rights toward a more cosmopolitan conception of morality, human rights and law. We will ask whether any shift that may be discernible is desirable in terms of enhancing global justice and the protection of human rights. We will do so by considering some key historical, political and legal developments: (1) In the post World War II era; (2) Under conditions of contemporary globalization, in general, and more particularly after the end of the Cold War; and (3) Post 9/11. Focusing on the latter, we will pose the question: what forms of global legal justice are possible under conditions of American empire and global inequality? What are the possibilities and dangers of cosmopolitanism? What role might law and legality play in securing the enforcement of human rights and protecting them against abuse and instrumentalization by powerful states? These questions are examined in the context of American empire, in general, the 'global war on terror,' in particular, and in relation to humanitarian intervention, the invasion of Iraq, and legal challenges to American empire and the rise of 'empire's law.'

An important dimension of the course will be our attempt to situate current controversies, challenges and conflicts in the emergence and consolidation of moral, political and legal responses to crimes against humanity, war crimes and genocide following World War II. To this end, we will read Hannah Arendt's important book, *Eichmann in Jerusalem*, and consider some aspects of the Nuremberg Trials. Both of these raise a question that will pervade our considerations: How should we think about, and what should we do about, law under conditions of domination, exploitation and imperialism if our aim is to develop human rights and work toward global justice, social and otherwise?

As part of our consideration of the 'enforcement' of human rights, we will consider universal jurisdiction as a way to 'litigate against empire' and the role of social movements in pressuring states to live up to human rights commitments.

## **REQUIRED TEXTS**

**Available at Octopus Books**, 116 Third Avenue (just west of Bank Street in the Glebe. See <http://octopusbooks.org> for hours etc.):

1. Arendt, Hannah. 1963. *Eichmann in Jerusalem: A Report on the Banality of Evil*. New York: Penguin.
2. Falk, Richard. 2009. *Achieving Human Rights*. New York: Routledge.
3. Hessel, Stéphane. 2011. *Time for Outrage: Indignez Vous!* New York: Hachette
4. LAWS2105 Coursepack (indicated with a "C" in the syllabus)

### **Please Note:**

**Please bring the required readings to lecture every week.**

Readings not in the required texts are available on the web. It is important that you know how to and can access journal articles through the MacOdrum Library website. If you anticipate any problems, please consult the library.

Adjustments may be made to the required readings during the term. If any are to be made, I will announce them in class and on WebCT.

Supplementary readings are listed by week. They are there for your information, for future research etc. They are idiosyncratic, not exhaustive, and I do not expect you to read supplementary material for 2105.

### Supplementary Texts:

Bartholomew, Amy (ed.). 2006. *Empire's Law: The American Imperial Project and the 'War to Remake the World'*. London: Pluto Press.

### Web CT

It is important that you have access to Carleton Connect and **use a connect email address**. Students are responsible for checking the course page on WebCT and checking their WebCT email.

If there is an important notice regarding a class meeting, a reading, or some other important note, I will try to post it on Web CT at least the evening before the relevant class meeting.

A discussion list will be available for you on WebCT. I will not monitor it.

### EVALUATION

Analytical Essay	40%	Due Friday, November 2 by noon (see below)
Final Exam (2 hours)	60%	Regular exam period

#### Essay:

The essay is due Friday November 2, 2012 by noon. You may hand it in to Professor Bartholomew or one of the TA's in Professor Bartholomew's office on that day between 10am and noon. This will ensure we have received your essay and you will know we have received it. Should you choose to deposit your essay in the Law Dept. Drop Box or submit it in any other manner, *you* assume the responsibility for it. If we do not find it there, we will assume you have not submitted it, or if we find it after the due date, we will assume it was submitted late.

The assignment is an analytical essay of 3000 words or less (under 10 double spaced pages) on Hannah Arendt's *Eichmann in Jerusalem*. More information will be provided later in the term. Please note the following:

The **late penalty** for the assignment is **1 mark per day late** (e.g. 1 day late reduces an essay mark from A to A-). Any essay received after noon on November 2 will be treated as at least one day late. *Each weekend day will count as one day. The professor has final say over the submission date, not the Department of Law stamp.* Any exception to the deadline must be cleared through the professor or a TA before the due date. An extension will only be granted if a student has medical or other official documentation that I judge to be convincing or an otherwise compelling reason. Late essays will also be marked last and returned after the essays that are submitted on time. Finally, late essays will receive less feedback than those submitted on time.

### **Final Exam:**

The final exam will be given during the regular examination period. You will be permitted to bring 1 sheet of 8x11 inch paper into the exam with you, with notes permitted on one side only.

**Note on Class Participation:** Although no mark is assigned for class participation, lectures are designed to leave time for questions and the opportunity for students to discuss and debate course readings and topics. Consistently informed participation, reflecting regular, close reading of the assigned texts is expected. Consistently excellent participation may result in the course mark being increased by 1 mark (e.g. from B- to B).

### **GENERAL RULES:**

**Failure to complete any aspect of the requirements may result in failure in the course.**

**Plagiarism will not be tolerated. There is a zero tolerance policy on plagiarism which means that any act of plagiarism – whether intentional or inadvertent – will be taken directly to the Dean.**

The OED (Oxford English Dictionary) defines plagiarism as follows: “The action or practice of taking someone else’s work, idea, etc., and passing it off as one’s own; literary theft.”<sup>1</sup>

Plagiarism includes failing to use quotation marks around quoted material, even if one provides a citation, or providing an inadequate citation such as failing to provide a page number for quoted material.

For more information on how to cite properly, in order to avoid inadvertent plagiarism, check:  
<http://www1.carleton.ca/studentaffairs/academic-integrity/> Another very useful source is:  
<http://www.writing.utoronto.ca/advice/using-sources/how-not-to-plagiarize>

"**Standing** in a course is determined by the course instructor subject to the approval of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Dean."

Please note: The seminar schedule, readings and the precise tasks for seminar participation are subject to change.

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<sup>1</sup> “Plagiarism, n,” *Oxford English Dictionary*. Third Edition, June 2006.

## COURSE SCHEDULE:

### 1. Sept 6 (Section A)/ Sept 11 (Section B) Administrivia and Introduction

Thursday September 13 (Section A) Class is Cancelled – please use this time to purchase books, download articles, visit the library, get organized, and start reading.

### 2. Sept 18 (Section B) / Sept 20 (Section A) Human Rights, Globalization and Post September 11: Overview of Developments in, and Contemporary Challenges to, the Post WW II Regime of Human Rights and International Law

#### Required reading:

Falk, Richard. 2009. *Achieving Human Rights*. "Introduction" (pp. 1-10), Ch. 6, "The Holocaust and the Emergence of International Human Rights," (pp. 83-96), and Ch. 9, "A Descending Spiral," (pp. 129-143).

Hirsh, David. 2003. *Law Against Genocide: Cosmopolitan Trials*. London: Cavendish/Glasshouse Press, pp. 1-20. Available as electronic source on MacOdrum website.

Paust, Jordan J. 2005. "Executive Plans and Authorizations to Violate International Law Concerning Treatment and Interrogation of Detainees." *Columbia Journal of Transnational Law* 43:811-863. *Just read the abstract and conclusion.* Online

Bartholomew, Amy. 2006. *Empire's Law: The American Imperial Project and the ' War to Remake the World'*. London: Pluto Press. "Introduction," pp. 1-17. C/RSV

#### Supplementary reading:

Solis, Gary D. and Fred L. Borch. 2010. *Geneva Conventions*. New York: Kaplan.

Sands, Philippe. 2006. *Lawless World: America and the Making and Breaking of Global Rules From FDR's Atlantic Charter to George W. Bush's Illegal War*. London: Penguin Books.

Roth, Kenneth (Human Rights Watch). 2004. "The Law of War in the War on Terror." *Foreign Affairs* January/February 2004: [www.foreignaffairs.org](http://www.foreignaffairs.org).

Duffy, Helen. 2005. *The 'War on Terror' and the Framework of International Law*. Cambridge, Cambridge University Press.

Kaplan, Amy. 2005. "Where is Guantanamo?" *American Quarterly* 57(3): 831-858.

Donnelly, Jack. 1998. "The Social Construction of Human Rights." Pp. 71-102 in *Human Rights in Global Politics*, edited by Tim Dunn and Nicholas Wheeler. Cambridge: Cambridge University Press.

Neuman, Gerald L. (2003). "Human Rights and Constitutional Rights: Harmony and Dissonance." *Stanford Law Review* 55: 1863.

Klug, Heinz. 2005. "Transnational Human Rights: Exploring the Persistence and Globalization of Human Rights." *Annual Review of Law and Social Science* 1: 85-103.

Borelli, Silvia. 2005. "Casting Light on the Legal Black Hole: International Law and Detentions Abroad in the 'War on Terror'." *International Review of the Red Cross* 87: 39-68.

Cole, David. 2006. "Are We Safer?" *New York Review of Books* 53(4): [www.nybooks.com/articles/18752](http://www.nybooks.com/articles/18752).

Dubose, Lou. 2007. "Disappeared: Five Years in Guantanamo" *The Washington Spectator*, July 7, [www.alternet.org/story/55993](http://www.alternet.org/story/55993)

Benhabib, Seyla. 2006. *Another Cosmopolitanism*. Oxford, Oxford University Press, esp. Chapter entitled "The Philosophical Foundation of International Norms," pp. 13-31.

Sands, Phillippe. 2008. *The Torture Team: Rumsfeld's Memo and the Betrayal of American Values*. New York, Palgrave MacMillan.

Nickel, James W. 2002. "Is Today's International Human Rights System a Global Governance Regime?" *The Journal of Ethics* 6:353-371.

Chinkin, Christine. 1998. "International Law and Human Rights." Pp. 105-129 in *Human Rights Fifty Years On: A Reappraisal*, edited by T. Evans. Manchester: Manchester University Press.

### **3. Sept 25/27 Human Rights, Globalization and Post September 11 Continued: Focusing on "Global War on Terror," Torture and "The Manhunt Doctrine"**

Film: "Ghosts of Abu Ghraib" and section 3 of "Blueprint for Accountability" may be shown in class.

#### **Required reading:**

Waldron, Jeremy. 2005. "Torture and Positive Law: Jurisprudence for the White House. *Columbia Law Review*" 105: 1681- 1750, just read "Introduction", 1681-1688; "The Bybee Memo", 1703-1714; "An Archetype of International Law" and "Conclusion" 1741 -1750. Online

Physicians for Human Rights. 2008. *Broken Laws, Broken Lives: Medical Evidence of Torture by U.S. Personnel and Its Impact*. Please read the Preface by Major General Antonio Taguba, USA (Ret.) and the Executive Summary. [http://brokenlives.info/?page\\_id=23](http://brokenlives.info/?page_id=23)

Dworkin, Ronald. 2006 (24 May). "It is Absurd to Calculate Human Rights According to a Cost-Benefit Analysis." *The Guardian*.  
<http://www.guardian.co.uk/commentisfree/2006/may/24/comment.politics>

The Editors. 2011 (10 March). "Obama's 'War on Terror'." *The Nation*.  
<http://www.thenation.com/print/article/159168/obamas-war-terror>

Chamayou, Grégoire. 2011 "The Manhunt Doctrine," *Radical Philosophy* 169 (Sept/Oct). To access, enter Macodrum website, type in Radical Philosophy into the Journal title, click on "online access," this takes you to Radical Philosophy. Then, in the search box, type in Chamayou. Or, go to: <http://www.radicalphilosophy.com/commentary/the-manhunt-doctrine>

Human Rights Watch. 2011 (11 July). "United States: Investigate Bush, Other Top Officials for Torture." <http://www.hrw.org/news/2011/07/11/united-states-investigate-bush-other-top-officials-torture>

#### **Supplementary:**

Paust, Jordan J. 2008-2009. The Absolute Prohibition of Torture and Necessary and Appropriate Sanctions. *Val. University Law Review* 43:1535. Excellent, crisp analysis of the law.

Jones, Nate. 2012. Document Friday: The Torture Memos, We Know Now. (April 6)  
<http://nsarchive.wordpress.com/2012/04/06/document-friday-the-torture-memos-we-now-know/>

Cohen, Andrew. 2012. "The Torture Memos, Ten Years Later," *The Atlantic* (February 6)  
<http://www.theatlantic.com/national/archive/2012/02/the-torture-memos-10-years-later/252439/>

For 'fun': Matt Taibbi, "Coming Soon: The Indefinite Detention of American Citizens," *Rolling Stone* 10 December 2011. Available at:

<http://www.readersupportednews.org/opinion2/275-42/8828-coming-soon-the-indefinite-detention-of-american-citizens>

Lazreg, Marnia (2008). *Torture and The Twilight of Empire*. Princeton, Princeton University Press.

Greenberg, Karen, ed. *The Torture Papers: The Road to Abu Ghraib*

Cole, David. 2009. *The Torture Memos: Rationalizing the Unthinkable*. New York: The New Press.

Junod, Tom. 2012. "The Lethal Presidency of Barak Obama," *Esquire* (August 18) <http://www.esquire.com/features/obamalethalpresidency0812>

See Democracy Now: "A Debate on Human Rights Watch's Call for Bush Administration Officials to be Tried for Torture" (July 12, 2011) [Roth v. Baker] Democracy Now, "How Whitehouse Sanctioned Torture" Interview with Phillippe Sands. On Youtube May 8, 2008

Rovics, David. Song for Bradley Manning

<http://www.youtube.com/user/pisquethethird#p/>

"War on Terror Through Muslim Eyes." 2010 (August 29). Aljazeera.

<http://english.aljazeera.net/programmes/empire/2010/01/201012581059472955.html>

Cole, David. 2009 (December 2009). "Getting Away with Torture." *New York Review of Books*.

A Guide to the Memos on Torture, *New York Times*

<http://www.nytimes.com/ref/international/24MEMO-GUIDE.html>

Lewis, A. (2004). "Making Torture Legal." *New York Review of Books* **LI**(12): 4.

Linebaugh, P. (2004). "Chapter 39, Order 39 Torture and Neo-Liberalism with Sycorax in Iraq." *Counterpunch* (November 27/28 2004):

[www.counterpunch.org/linebaugh11272004.html](http://www.counterpunch.org/linebaugh11272004.html).

Luban, D. (2005). "Liberalism and the Unpleasant Question of Torture." *Virginia Law Review* **91**: 1425-1461.

Macklin, A. (2008). "From Cooperation to Complicity, to Compensation: War on Terror, Extraordinary Rendition and Costs of Torture." *European Journal of Migration and International Law* **10**(1): 11-30.

Mayer, J. (2005). "Outsourcing Torture." *The New Yorker*.

Mayer, J. (2008). *The Dark Side: The Inside Story on How the War on Terror Turned into A War on American Ideals*. New York, Doubleday.

McCoy, A. (2006). "Tomdispatch: Alfred McCoy on How Not to Ban Torture in Congress."

Rona, G. (2008). "Legal Issues in the 'War on Terrorism' - Reflecting on the Conversation between Silja N.U. Voneky and John Bellinger." *German Law Journal* **9**(5): 711-735.

Scheuerman, W. E. (2008). "Torture and the New Paradigm of Warfare." *Constellations* **15**(4): 561-575.

Sussman, D. (2005). "What's Wrong with Torture?" *Philosophy and Public Affairs* **33**.

Weiner, A. S. (2009). "The Torture Memos and Accountability." *ASIL Insights* **13**(6).

Weissbrodt, D. and A. Bergquist (2006). "Extraordinary Rendition: A Human Rights Analysis." *Harvard Human Rights Journal* **9**: 123-160.

Willis, S. (2006). "Guantanamo's Symbolic Economy." *New Left Review* **39**(May-June): 123.

Dudziak, Mary L. 2012. *War Time: An Idea, Its History, Its Consequences* Oxford.

Sands, Phillippe. 2008. "The Green Light." *Vanity Fair*. May 2008.

<http://www.vanityfair.com/politics/features/2008/05/guantanamo200805?currentPage=1>

Sands P. 2008. *The Torture Team: Rumsfeld's Memo and the Betrayal of American Values*. New York: Palgrave MacMillan.

Hajjar, Lisa. 2011 (July 05). "The Legal Campaign Against American Torture." Jadaliyya. Online.

Hersh, Seymour. 2004. "Rumsfeld's Dirty War on Terror". *The Guardian*

Lewis, Anthony. 2004. "Making Torture Legal." *New York Review of Books* LI:4

Schabas, William, A. 2005-2006. "The Crime of Torture and the International Criminal Tribunals." *Case W. Res. J. Int'l L.* 37: 349

Mark Danner, "Into the light of Day: Torture, Human Rights and Bush's State of Exception" video available on youtube at: <http://www.youtube.com/watch?v=0gbMJUrWeMA&feature=channel>

Weiner AS. 2009. The Torture Memos and Accountability. *ASIL Insights* 13

Luban, David. 2005. "Liberalism and the Unpleasant Question of Torture". *Virginia Law Review* 91:1425-61

Schabas, William A. 2007. "House of Lords Prohibits Use of Torture Evidence, but Fails to Condemn its Use by the Police." *International Criminal Law Review* 7:133-42

Frankenberg, G. 2008. "Torture and Taboo: An Essay Comparing Paradigms of Organized Cruelty." *The American Journal of Comparative Law* 56:403-

Mayer, Jane. 2008. *The Dark Side: The Inside Story on How the War on Terror Turned into A War on American Ideals*. New York: Doubleday

CBC News, July 15, 2008. "You Don't Care About Me, Omar Khadr Sobs in Interview Tapes," <http://www.cbc.ca/canada/story/2008/07/15/khadr-tapes.html>

Cole, David. 2006. "Are We Safer?" *New York Review of Books* 53:www.nybooks.com/articles/18752

Evangelista, Matthew.

Peirce, Gareth. 2010. *Dispatches from the Dark Side*. New York and London: Verso.

Peirce, Gareth. 2008. "On the Treatment of Muslims in Britain." *London Review of Books* 30(7): 3. <http://www.lrb.co.uk/v30/n07/peir01.html>

Bartholomew, Amy. 2006. "Introduction." In *Empire's Law: The American Imperial Project and the 'War to Remake the World*, edited by Amy Bartholomew. London: Pluto Press. Pp. 1-17.

Olshansky, Barbara. 2007. *Democracy Detained: Secret Unconstitutional Practices in the U.S. War on Terror*. New York, Seven Stories Press.

#### 4. Oct 2/4                      Nuremberg and its Legacy

##### **Required reading:**

Bass, Gary Jonathan. 2000. "Nuremberg." Pp. 147-205 in *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals*. Princeton, NJ: Princeton University Press. C/RSV

Hirsh, David. 2003. *Law Against Genocide: Cosmopolitan Trials*, pp. 38-49. Available as ebook on MacOdrum website

Falk, Richard A., Gabriel Kolko and Robert Jay Lifton eds. 1971. *Crimes of War: A Legal, Political-Documentary, and Psychological inquiry into the responsibility of leaders, citizens, and soldiers for Criminal Acts in Wars*. New York: Random House. pp. 76-109. C/RSV

Fine, Robert. (2010). "Dehumanizing the Dehumanizers: Reversal in Human Rights Discourse." *Journal of Global Ethics* 6, no. 2: 179-190; just read 179-181.online



Zolo, Danilo. 2009. *Victors' Justice: From Nuremberg to Baghdad*. London: Verso, 138-147; and 165-166. C

Kirchheimer, Otto. 1961. "Trial by Fiat of the Successor Regime" Pp: 323-341 in *Political Justice: The Use of Legal Procedure for Political Ends*. Princeton: Princeton University Press. C/RSV

Supplementary:

June 5, 2012 Democracy Now. Segment from "The Unheeded Message of the Holocaust" with an interview with Polish Resistance Jan Karsky, awarded Pres'1 Medal of Freedom by Obama in May 2012.

Fraser, David. 2005. *Law after Auschwitz : Towards a jurisprudence of the Holocaust* Durham: Academic Press.

Cardenas, Sonia. 2010. "The Geneva Conventions and the Normative Tenor of International Relations." Pp. 1-17 in *The Geneva Conventions Under Assault*, edited by Sarah Perrigo and Jim Whitman. London: Pluto Press.

Benhabib, Seyla. 2006. *Another Cosmopolitanism*. Oxford, Oxford University Press, chapter entitled "The Philosophical Foundation of International Norms."

Muller, Ingo. 1991. *Hitler's Justice: The Courts of the Third Reich*. Cambridge: Harvard UP.

Douglass, Lawrence. 2001. *The Memory of Judgment: Making Law and History in the Trials of the Holocaust*. New Haven: Yale UP.

Taylor, Telford. 1992. *The Anatomy of the Nuremberg Trials*. New York: Alfred A. Knopf.

Neumann, Franz. *Behemoth: The Structure and Practice of National Socialism 1933-1944*. New York: Harper and

Zolo, Danilo. 2007. "Who Is Afraid of Punishing Aggressors?" *Journal of International Criminal Justice* 5(4): 799

Tomuschat, Christian. 2006. "The Legacy of Nuremberg." *Journal of International Criminal Law* 4:830-444.

The Nuremberg Trials: The Justice Trial

<http://www.law.umkc.edu/faculty/projects/ftrials/nuremberg/Alstoetter.htm>

**5. Oct 9/11 After Nuremberg: *Eichmann in Jerusalem***

Film: "The Specialist: Portrait of a Modern Criminal" (1999) – will be screened in class.

**Required reading:**

Arendt, Hannah. 1963. *Eichmann in Jerusalem: A Report on the Banality of Evil*, New York: Penguin. RSV **You are responsible for reading the entire book, but focus on pp. 3-150; 206-298.**

*Convention on the Prevention and Punishment of the Crime of Genocide* 1948 Available at: <http://www.preventgenocide.org/law/convention/text.htm>

Supplementary reading: See the following week

**Required reading:**

Arendt, Hannah. 1963. *Eichmann in Jerusalem: A Report on the Banality of Evil*, New York: Penguin. Continued.

Arendt, Hannah. 1966. "The Decline of the Nation-State and the End of the Rights of Man" in *The Origins of Totalitarianism* 267-302 (read 290-302 most closely), and intro p. ix . San Diego/New York: Harvest/Harcourt. C/RSV

Marrus, Michael R. 2001. "Eichmann in Jerusalem: Justice and History," in Steven L. Aschheim, ed. *Hannah Arendt in Jerusalem* (Berkeley: University of California Press), 205-213. C/RSV

**Supplementary reading:**

Parekh, Serena. (2004). "A Meaningful Place in the World: Hannah Arendt on the Nature of Human Rights." *Journal of Human Rights* 3(1): 41-53. [ Excellent on *Origins*]

Hirsh, David. 2003. *Law Against Genocide: Cosmopolitan Trials* 23-24, 27-31, 33-35.

Osiel, Mark. 1999. *Obedying Orders: Atrocity, Military Discipline and the Law of War*. New Brunswick, NJ: Transaction Publishers, esp. pp. 145-151.

Butler, Judith. 2009. "Hannah Arendt, Ethics and Responsibility." Lecture series on Youtube.

Bernstein, Richard J. 2005. "Hannah Arendt on the Stateless." *Parallax* 11:46-60.

Fine, Robert. 2000. "Crimes Against Humanity: Hannah Arendt and the Nuremberg Debates." *European Journal of Social Theory* 3:293-311.

Bernstein, Richard J. 2002. *Radical Evil: A Philosophical Interrogation*. Cambridge, UK: Polity.

Douglas, Lawrence. 2001. *The Memory of Judgment: Making Law and History in the Trials of the Holocaust*. New Haven: Yale.

Fraser, Nancy. 2004. "Hannah Arendt in the 21st Century." *Contemporary Political Theory* 3:253-261.

Kohler, Lotte and Hans Saner—. 1992. *Hannah Arendt Karl Jaspers Correspondence 1926-1969*. New York: Harcourt Brace Jovanovich.

May, Larry and Jerome Kohn. 1997. *Hannah Arendt: Twenty Years Later*. Cambridge, Ma.: The MIT Press.

Mertens, Thomas. 2005. "Memory, Politics and Law -- The Eichmann Trial: Hannah Arendt's View on the Jerusalem Court's Competence." *German Law Journal* 6:407-424.

Osiel, Mark J. 2000. "Why Prosecute? Critics of Punishment for Mass Atrocity." *Human Rights Quarterly* 22:118-147.

Schaap, Andrew. 2001. "Guilty Subjects and Political Responsibility: Arendt, Jaspers and the Resonance of the 'German Question' in Politics of Reconciliation." *Political Studies* 49:749-766.

Benhabib, S. (2000). Arendt's Eichmann in Jerusalem. *Cambridge Companion to Hannah Arendt*. D. Villa. Cambridge, Cambridge University Press: 65-85.

Bernstein, R. J. (1996). Did Hannah Arendt Change Her Mind?: From Radical Evil to the Banality of Evil. *Hannah Arendt: Twenty Years Later*. L. May. Boston, The MIT Press: 127-146.

- Birmingham, P. (2006). *Hannah Arendt and Human Rights: The Predicament of Common Responsibility*. Bloomington, Indiana University Press.
- Felman, Shoshana. "Theaters of Justice: Arendt in Jerusalem, the Eichmann Trial, and the Redefinition of Legal Meaning in the Wake of the Holocaust," *Critical Inquiry* Vol. 27, No. 2 (Winter, 2001), pp. 201-238
- Fine, Robert. (2000). "Crimes Against Humanity: Hannah Arendt and the Nuremberg Debates." *European Journal of Social Theory* 3(3): 293-311.
- Fine, R. (2006). "Cosmopolitanism and Violence: Difficulties of Judgment." *British Journal of Sociology* 57(1): 49-67.
- Fine, R. (2010). "Dehumanizing the Dehumanizers: Reversal in Human Rights Discourse." *Journal of Global Ethics* 6(2): 179-190.
- Fraser, D. "The Law's Jewish Question: The Holocaust and Critical Theory." *Modern Law Review* 72(5): 844-866.
- Ingram, J. D. (2008). "What is A Right to Have Rights? Three Images of the Politics of Human Rights." *American Political Science Review* 102(4): 401-416.
- Isaac, J. C. (1996). "A New Guarantee on Earth: Hannah Arendt on Human Dignity and the Politics of Human Rights." *American Political Science Review* 90(1).
- Kinsella, H. K. (2008). "Arendt and Analogies." *International Politics* 45: 497-505.
- Marso, L. J. (2012). "Simone de Beauvoir and Hannah Arendt: Judgments in Dark Times." *Political Theory* 40(2): 165-193.
- May, L. (2004). "How is Humanity Harmed by Genocide?" *International Legal Theory* 10(1).
- Menke, C. (2007). "The 'Aporias of Human Rights' and the 'One Human Right': Regarding the Coherence of Hannah Arendt's Argument." *Social Research* 74(3): 739-762.
- Owens, Patricia. (2007). *Between War and Politics: International Relations and the Thought of Hannah Arendt*. Oxford, Oxford University Press.
- Schaap, A. (2011). "Enacting the Right to Have Rights: Ranciere's Critique of Hannah Arendt." *European Journal of Political Theory* 10(1).
- Cohen, Jean L. 1996. "Rights, Citizenship and the Modern Form of the Social: Dilemmas of Arendtian Republicanism." *Constellations* 3:164-189.
- Benhabib, Seyla. 2004. *The Rights of Others: Aliens, Residents and Citizens*. Cambridge: Cambridge University Press.

## **7. Oct 23/25      The Nuremberg Effect: Cosmopolitan Law and Universal Jurisdiction**

### **Required reading:**

Eleftheriadis, Pavlos. 2003. "Cosmopolitan Law," *European Law Journal*, 9, no. 2 (April): 241-263; just read 241-246; 249-257; and 260-263. online

Wilke, Christiane. 2005. "A Particular Universality: Universal Jurisdiction for Crimes Against Humanity in Domestic Courts." *Constellations* 12, no. 1: 83-102. online

### **Required reading for class discussion:**

Henry Kissinger, "The Pitfalls of Universal Jurisdiction: Risking Judicial Tyranny," <http://www.globalpolicy.org/intljustice/general/2001/07kiss.htm>

Center for Constitutional Rights. "Universal Jurisdiction: The Case Against Rumsfeld and Accountability for U.S. Torture." <http://ccrjustice.org/case-against-rumsfeld> Read summary, listen to interview with Wolfgang Kalek, and read the overview of the Spanish litigation at: <http://ccrjustice.org/spain-us-torture-case>

Human Rights Watch. 2011 (11 July). "United States: Investigate Bush, Other Top Officials for Torture." <http://www.hrw.org/news/2011/07/11/united-states-investigate-bush-other-top-officials-torture>

Supplementary reading:

"Human Rights Watch: Obama Broke Law Not Prosecuting Bush and Cheney"

[http://therealnews.com/t2/index.php?option=com\\_content&task=view&id=31&Itemid=74&jumival=7088](http://therealnews.com/t2/index.php?option=com_content&task=view&id=31&Itemid=74&jumival=7088) Listen on line.

Gallagher, Katherine. 2009. "Universal Jurisdiction in Practice: Efforts to Hold Donald Rumsfeld and other High Level United States Officials Accountable for Torture." *Journal of International Criminal Justice* 7, no. 5,

Lobe, Jim. "Give Rumsfeld the Pinochet Treatment, says US Amnesty Chief" Znet 27 May 2005 [www.zmag.org/content/showarticle.cfm?SectionID=1&ItemID=7948](http://www.zmag.org/content/showarticle.cfm?SectionID=1&ItemID=7948)

Fischer-Lescano, Andreas. 2005. "Torture in Abu Ghraib: The Complaint against Donald Rumsfeld under the German Code of Crimes against International Law." *German Law Journal* 6:689-724

Center for Constitutional Rights, "Background Brief on the Case Against Rumsfeld, Gonzales and Others Filed in Germany On November 14, 2006.

Center for Constitutional Rights, "Rumsfeld War Crimes Case in Germany Focus of United Nations Special Rapporteur on Independence of Judges and Lawyers: Attorneys File Motion for Reconsideration of Complaint with German Federal Prosecutor" [http://www.ccrny.org/v2/print\\_page.asp?ObjID=ACMRxLuuyb&Content=1054](http://www.ccrny.org/v2/print_page.asp?ObjID=ACMRxLuuyb&Content=1054)

Roth, Ken, "The Case for Universal Jurisdiction," *Foreign Affairs*

Steiner, Henry J. 2004. "Three Cheers for Universal Jurisdiction -- Or is it Only Two?" *Theoretical Inquiries in Law* 5:199-236.

Amnesty International. 1999. "Universal Jurisdiction: 14 Principles on the Effective Exercise of Universal Jurisdiction." (AI Index: IOR 53/01/99)

<http://web.amnesty.org/library/index/engIOR530011999>

Nash, Kate. 2007. "Pinochet: Cosmopolitanism and Intermestic Human Rights." *British Journal of Sociology* 58(3): 417.

Benhabib, Seyla. 2006. *Another Cosmopolitanism*, Edited by Robert Post. Oxford: Oxford University Press.

European Center for Constitutional and Human Rights (ECCHR), Ed. (2008). *CIA 'Extraordinary Rendition' Flights, Torture and Accountability - A European Approach*. Berlin.

Benhabib, Seyla. 2006. *Another Cosmopolitanism*. Oxford, Oxford University Press, chapter entitled "The Philosophical Foundation of International Norms."

## 8. Oct 30/Nov 1 Global Justice and/or American Empire? Between Empire, Cosmopolitan Morality and Law

### Required reading:

Cohen, Jean L. 2004. "Whose Sovereignty? Empire Versus International Law." *Ethics and International Affairs* 18: 1-24. online

### Required reading for Class Discussion:

Ignatieff, Michael. 2003. "The American Empire: The Burden." *The New York Times Magazine*, January 5, 22ff.  
<http://query.nytimes.com/gst/fullpage.html?res=9B03E6DA143FF936A35752C0A9659C8B63>

#### Supplementary reading:

Panitch, Leo and Sam Gindin. 2006. "Theorizing American Empire" in Bartholomew, (ed.) *Empire's Law*. Pp: 21-43.

Ignatieff, Michael. "Getting Iraq Wrong." *The New York Times Magazine*

<http://www.nytimes.com/2007/08/05/magazine/05iraq-t.html?ex=1186977600&en=74b1f238b681b2da&ei=5070&emc=eta1>

Kurasawa, Fuyuki. 2006. "The Uses and Abuses of Humanitarian Intervention in the Wake of Empire." In *Empire's Law: The American Imperial Project and the 'War to Remake the World'*, ed. Amy Bartholomew, pp. 297-312. London: Pluto

Harvey, David. 2003. *The New Imperialism*. Oxford: Oxford UP.

Harvey, David. 2005. *A Brief History of Neoliberalism*. Oxford: Oxford UP.

Anghie, Anthony. 2005. *Imperialism, Sovereignty and the Making of International Law*. Cambridge, Cambridge UP.

Hardt, Michael and Antonio Negri. 2000. *Empire*. Cambridge, Harvard University Press.

Hussein, Nasser. 2003. *The Jurisprudence of Emergency: Colonialism and the Rule of Law*. Ann Arbor, University of Michigan.

Krisch, Nico. 2005. "International Law in Times of Hegemony: Unequal Power and the Shaping of the International Legal Order." *European Journal of International Law* 16(3): 369-408.

Kaplan, Amy. 2005. *The Anarchy of Empire in the Making of US Culture*. Cambridge, Harvard UP.

**The Arendt Essay is due Friday November 2, 2012 by noon. You may hand it in to Professor Bartholomew or one of the TA's in Professor Bartholomew's office between 10am and noon. This will ensure we have received your essay and you will know we have received it. Should you choose to deposit your essay in the Law Dept. Drop Box or submit it in any other manner, you assume the responsibility for it.**

**9. Nov 6/8 Just War, or Just Other Wars? The Bush Doctrine, the Invasion of Iraq and the ‘Global War on Terror’: Challenges to global responsibility, justice and legality. Or, the rise of empire’s law.**

**Required reading:**

Ignatieff, Michael. “The Burden.” *The New York Times Magazine* (January 5, 2003): 22ff (from week 8)

The Lessons of Guernica, <http://www.commondreams.org/views03/0209-04.htm> online

Habermas, Jürgen. “Interpreting the Fall of a Monument.” *Constellations* 10, no. 3(2003): 364-370. Online. [Also in Amy Bartholomew, (ed.) *Empire’s Law*, 44-51.]

Anghie, Antony. "The War on Terror and Iraq in Historical Perspective." *Osgoode Hall Law Journal* 43 (2005): 45-66. Online

**Supplementary reading:**

Bartholomew, Amy and Jennifer Breakspear. 2003. “Human Rights as Swords of Empire.” In *The New Imperial Challenge*, ed. Leo Panitch and Colin Leys, pp. 125-45. London: Merlin Press

Coates, David. “A ‘Just’ War? or Just Another of Tony Blair’s Wars?” Pp.282-296 in Bartholomew, (ed.) *Empire’s Law*.

Falk, Richard A. 2007. *The Costs of War: International Law, The UN and World Order After Iraq*. New York: Routledge.

Smith, Neil. 2005. *The Endgame of Globalization*. New York: Routledge.

Roth, Ken (for Human Rights Watch). 2004. “War in Iraq: Not a Humanitarian Intervention.” <http://www.electroniciraq.net/news/printer1354.shtml>

Halliday, Denis. “The UN and Its Conduct in the Invasion and Occupation of Iraq.” Pp. 77-85 in Bartholomew, Amy (ed.) *Empire’s Law*.

International Criminal Court, Office of the Prosecutor (Luis Ocampo), Letter dated 9 February 2006

[http://www.iccpi.int/library/organs/otp/OTP\\_letter\\_to\\_senders\\_re\\_Iraq\\_9\\_February\\_2006.pdf](http://www.iccpi.int/library/organs/otp/OTP_letter_to_senders_re_Iraq_9_February_2006.pdf)

[http://www.icc-cpi.int/NR/rdonlyres/F596D08D-D810-43A2-99BB-B899B9C5BCD2/277422/OTP\\_letter\\_to\\_senders\\_re\\_Iraq\\_9\\_February\\_2006.pdf](http://www.icc-cpi.int/NR/rdonlyres/F596D08D-D810-43A2-99BB-B899B9C5BCD2/277422/OTP_letter_to_senders_re_Iraq_9_February_2006.pdf)

Amnesty International. 2005. “Amnesty International Press Release: Report 2005: A Dangerous New Agenda? “Forward” and “United States of America” all in Amnesty International Report 2005.

<http://web.amnesty.org/report2005/message-eng> <http://web.amnesty.org/report2005/usa-summary-eng>

Anghie, Anthony. 2005. "The War on Terror and Iraq in Historical Perspective." *Osgoode Hall Law Journal* 43:35.

Paust, Jordan J. 2005. "Executive Plans and Authorizations to Violate International Law Concerning Treatment and Interrogation of Detainees." *Columbia Journal of Transnational Law* 43:811-863.

Retort. 2005. "Blood for Oil?" *London Review of Books* 27:www.lrb.co.uk/v27/n08.

Retort. 2006. "All Quiet on the Eastern Front." *New Left Review* 41:88-91.

Zolo, Danilo. (2007). "Who Is Afraid of Punishing Aggressors?" *Journal of International Criminal Justice* 5(4): 799-807.

10. Nov 13/15

## The 'Global War on Terrorism': Challenges to Human Rights and Legality

### Required Reading:

Bartholomew, Amy. "Defending Legality in the Age of Empire's Law," in *Legality and Legitimacy in Global Affairs*. Richard Falk, Mark Juergensmeyer, and Vesselin Popovski eds., 92-126. Oxford: Oxford University Press. C

Falk, Richard. 2009. *Achieving Human Rights*. Chapter 9 "A Descending Spiral" and chapter 10 "Encroaching on the Rule of Law."

Whitman, Jim. "Freeing Force from Legal Constraint," in *The Geneva Conventions Under Assault*. Sarah Perrigo and Jim Whitman eds., 201-221. London: Pluto Press, 2010.

Recall: Waldron, Jeremy. 2005. "Torture and Positive Law: Jurisprudence for the White House. *Columbia Law Review*" 105: 1681- 1750, just read "Introduction", 1681-1688; "The Bybee Memo", 1703-1714; "An Archetype of International Law" and "Conclusion" 1743 -1750.

Recall: Chamayou, Grégoire. 2011 "The Manhunt Doctrine," *Radical Philosophy* 169 (Sept/Oct). To access, enter Macodrum website, type in Radical Philosophy into the Journal title, click on "online access," this takes you to Radical Philosophy. Then, in the search box, type in Chamayou. Or, go to: <http://www.radicalphilosophy.com/commentary/the-manhunt-doctrine>

Recall: The Editors. 2011 (10 March). "Obama's 'War on Terror'." *The Nation*. <http://www.thenation.com/print/article/159168/obamas-war-terror>

### Supplementary reading:

See readings listed under weeks 2 and 3.

Cora Currier and Blair Hickman, "Obama's War on Terror" ProPublica rounds up the best watchdog journalism on the president's national security policies. On Slate at [http://www.slate.com/articles/news\\_and\\_politics/propublica/2012/06/is\\_obama\\_s\\_national\\_security\\_policy\\_any\\_different\\_from\\_bush\\_s\\_.html](http://www.slate.com/articles/news_and_politics/propublica/2012/06/is_obama_s_national_security_policy_any_different_from_bush_s_.html)

Sanders, Rebecca. (2011). "Implausible Legality " *International Journal of Human Rights* 15, no. 4: 605-626.

Balasubramaniam, Rueban R. 2008. "Indefinite Detention: Rule By Law or Rule of Law?" In *Emergencies and the Limits of Legality* ed. VV Ramraj. Cambridge: Cambridge University Press.

Denike, Margaret. 2008. "The Human Rights of Others: Sovereignty, Legitimacy and 'Just Causes' for the 'War on Terror'" *Hypatia* 23: 95-121.

Peirce, Gareth. 2008. "On the Treatment of Muslims in Britain." *London Review of Books* 30(7): 3.

Hajjar, Lisa. "From Nuremberg to Guantanamo: International Law and American Power Politics," *Middle East Report*: 22 [http://www.merip.org/mer/mer229/229\\_hajjar.html](http://www.merip.org/mer/mer229/229_hajjar.html)

European Center for Constitutional and Human Rights (ECCHR), Ed. (2008). CIA 'Extraordinary Rendition' Flights, Torture and Accountability - A European Approach. Berlin. See esp. Satterthwaite, Margaret, "Analysis of International and National Law."

Razack, Sherene. 2008. *Casting Out: The Eviction of Muslims From Western Law and Politics*. Toronto: University of Toronto Press.

- Anghie, Antony. 2005. "The War on Terror and Iraq in Historical Perspective." *Osgoode Hall Law Journal* 43:35
- An-Na'im, Abdullah. 2002. "Upholding International Legality Against Islamic and American Jihad." In *Worlds in Collision: Terror and the Future of Global Order*, ed. K Booth, T Dunne, pp. 162-71. Houndsmills, Basingstoke, Hampshire: Palgrave Macmillan
- Baker, Peter. 2010. "Inside Obama's War on Terror." *New York Times*
- Barnett, C. 2009. "Violence and Publicity: Constructions of Political Responsibility After 9/11." *Critical review of international social and political philosophy* 12:353-75
- Borradori, Giovanna. ed. 2003. *Philosophy in a Time of Terror: Dialogues with Jürgen Habermas and Jacques Derrida*. Chicago: University of Chicago Press
- Bradley, CA. 2008. "Terror and the Law: The Limits of Judicial Reasoning in the Post-9/11 World" . *Foreign Affairs* 87: 132-7
- Byers, Michael. 2002. "Terror and the Future of International Law." In *Worlds in Collision: Terror and the Future of Global Order*, ed. K Booth, T Dunn, pp. 118-27. New York: Palgrave
- Daulatzai, S. 2007. Protect Ya Neck: Muslims and the Carceral Imagination in the Age of Guantanamo. *Souls* 9:132-47
- Duffy, Helen. 2005. *The 'War on Terror' and the Framework of International Law*. Cambridge: Cambridge University Press
- Evangelista, Matthew. 2008. *Law, Ethics and the War on Terror*. Cambridge: Polity
- Fine, Robert. 2009. Cosmopolitanism and Human Rights: Radicalism in a Global Age. *Metaphilosophy* 40:8-23
- Gregory, Derek. 2004. "Palestine and the 'War on Terror'." *Comparative Studies of South Asia, Africa and the Middle East* 24:182-95
- Gregory, Derek. 2006. "The Black Flag: Guantanamo Bay and the Space of Exception." *Geografiska Annaler, Series B: Human Geography* 88:405-27
- Hyde-Peirce A. 200. Realist Ethics and the War on Terror. *Globalizations* 6:23-40
- Jabri V. 2006. War, Security and the Liberal State. *Security Dialogue* 37:47-64
- Jayasuriya K. 2005. *Reconstituting the Global Liberal Order*. London: Routledge
- Jurists ICo. 2009. Assessing Damages, Urging Action
- Kaplan A. 2005. Where is Guantanamo? *American Quarterly* 57:831-58
- Klug H. 2003. The Rule of Law, War, or Terror. *Wisconsin Law Journal* 2003:365-84
- Lelyveld J. 2007. No Exit. *New York Review of Books* 54
- Londras Fd. 2008. Guantanamo Bay: Toward Legality? *The Modern Law Review* 71:36-58
- Martinez J. 2008. Process and Substance in the 'War on Terror'. *Columbia Law Review* 108:1013
- McCulluch J, Pickering S. 2009. Pre-Crime and Counter-Terrorism. *British Journal of Criminology* 49:628-45
- Megret F. 2002. 'War?' Legal Semantics and the Move to Violence. *European Journal of International Law* 13:361-99
- Moeckli D. 2005. The US Supreme Court's 'Enemy Combatant' Decisions: A 'Major Victory for the Rule of Law?' *Journal of Conflict and Security Law* 10:75-99
- Mokhtari S. 2006. Human Rights in the Post-September 11th Era: Between Hegemony and Emancipation. *Muslim World Journal of Human Rights* 3:1-15 (Article 1)
- Paust JJ. 2003. War and Enemy Status After 9/11: Attacks on the Laws of War. *Yale J. Int'l L.* 28:325-35
- Project HSR. 2008. Human Security Brief 2007 (Dying to Lose: Explaining the Decline in Global Terrorism), Simon Fraser University
- Ralph J. 2009. The Laws of War and the State of the American Exception. *Review of International Studies* 35:631-49
- Roach K, Trotter G. 2005. "Miscarriages of Justice in the War against Terror." *Pennsylvania State Law Review* 109:967-1041



- Roberts A. 2004. Righting Wrongs or Wronging Rights? The United States and Human Rights Post-September 11. *European Journal of International Law* 15:721-49
- Rona G. 2003. Interesting Times for International Humanitarian Law. *The Fletcher Forum of World Affairs* 27:55-74
- Rona G. 2007. An Appraisal of US Practice Relating to 'Enemy Combatants'. *Yearbook of International Humanitarian Law* 10:232-50
- Rona G. 2008. Legal Issues in the 'War on Terrorism' - Reflecting on the Conversation between Silja N.U. Voneky and John Bellinger. *German Law Journal* 9:711-35
- Sassoli M. 2004. Use and Abuse of the Laws of War In the 'War on Terrorism'. *Law and Inequality* 22:195-221
- Scheuerman WE. 2006. Carl Schmitt and the Road to Abu Ghraib. *Constellations* 13:108-24
- Scheuerman WE. 2008. Torture and the New Paradigm of Warfare. *Constellations* 15:561-75
- Smith N. 2006. Global Executioner. *South Atlantic Quarterly* 105:55-69
- Solis GD. 2010. *The Law of Armed Conflict*. Cambridge UK: Cambridge UP
- Stohl M. 2008. Old Myths, New Realities and the Enduring Realities of Terrorism. *Critical Studies on Terrorism* 1:5-16
- Tamanaha B. 2009, March 5. The Collapse of the 'Good Faith' Excuse for Yoo (Bybee, Delahunty). In *Balkanization*, ed. Balkanization, p. 7
- Weissbrodt D, Bergquist A. 2006. Extraordinary Rendition: A Human Rights Analysis. *Harvard Human Rights Journal* 9:123-60
- Young IM. 2003. "The Logic of Masculinist Protection: Reflections on the Current Security State". *Signs* 29:1-25
- Mayer, Jane. 2007. "The Black Sites: A rare look inside the CIA's secret interrogation program" *The New Yorker*. August 13.  
[http://www.newyorker.com/reporting/2007/08/13/070813fa\\_fact\\_mayer](http://www.newyorker.com/reporting/2007/08/13/070813fa_fact_mayer)
- Roth, Kenneth. 2004. "The Law of War in the War on Terror." *Foreign Affairs* January/February 2004:  
<http://www.foreignaffairs.org/20040101facomment83101/kenneth-roth/the-law-of-war-in-the-war-on-terror.html?mode=print>
- Fitzpatrick, Joan. 2003. "Speaking Law to Power: The War Against Terrorism and Human Rights." *European Journal of International Law* 14:241-264.
- Tisdall, Simon, Ewen MacAskill, and Richard Norton-Taylor. 2006. "America's Long War." in the *Guardian*, London. February 15.  
<http://www.guardian.co.uk/frontpage/story/0,,1710030,00.html>
- Borelli, Silvia. 2005. "Casting Light on the Legal Black Hole: International Law and Detentions Abroad in the 'War on Terror'." *International Review of the Red Cross* 87:39-68.
- Paust, Jordan J. 2003. "War and Enemy Status After 9/11: Attacks on the Laws of War." *Yale J. Int'l L.* 28:325.
- Paust, Jordan J. 2005. "Executive Plans and Authorizations to Violate International Law Concerning Treatment and Interrogation of Detainees." *Columbia Journal of Transnational Law* 43:811-863.
- An-Na'im, Abdullahi Ahmed. 2002. "Upholding International Legality Against Islamic and American Jihad." Pp. 162-171 in *Worlds in Collision: Terror and the Future of Global Order*, edited by K. Booth and T. Dunne. Houndsmills, Basingstoke, Hampshire: Palgrave Macmillan
- Waldron, Jeremy. 2005. "Torture and Positive Law: Jurisprudence for the White House." *Columbia Law Review* 105:1681.
- Wilke, Christiane. 2005. "War v. Justice: Terrorism Cases, Enemy Combatants, and Political Justice in U.S. Courts." *Politics and Society* 33:637-669.
- Horton, Scott. 2007. "State of Exception." *Harper's* July: 74-81.

Cole, David. 2006. "Are We Safer?" *New York Review of Books* 53:4.

[www.nybooks.com/articles/18752](http://www.nybooks.com/articles/18752).

Dudai, Ron. 2006. "Guantanamo Exported: 'Illegal Combatants' and the Israeli Supreme Court" *Jurist*. May 11. <http://jurist.law.pitt.edu/forumy/2006/05/guantanamo-exported-illegal-combatants.php>

Byers. Michael. In *Worlds in Collision*

## **11. Nov 20/22 Human rights and political struggles today: A case study**

### **Required reading:**

Hessel, Stéphane. 2011. *Time For Outrage: Indignez Vous!* New York: Hachette

Other readings TBA

Recall: Arendt, Hannah. [1966] (New Edition) *The Origins of Totalitarianism*, "The Decline of the Nation State and the End of the Rights of Man," pp. 267-302. San Diego/New York: Harvest/Harcourt.

### **Supplementary reading:**

Students Against Israeli Apartheid-Carleton. 2010 (2 November). *Carleton University Pension Fund: Complicity in Violations of Human Rights and International Humanitarian Law in the Occupied Palestinian Territories*. Available at: <http://carleton.saia.ca/pension-divestment-campaign.html> Click on "divestment report" link on that site.

Introducing the BDS Movement <http://www.bdsmovement.net/bdsintro>

Barghouti, Omar, 2011. *Boycott, Divestment, Sanctions: The Global Struggle for Palestinian Rights* Chicago: Haymarket Books.

Listen to Victoria Brittain introduce Barghoutti and to Barghoutti discuss his book at:

<http://www.bdsmovement.net/2011/global-struggle-for-palestinian-rights-book-6302>

Gregory, Derek. (2004). "Palestine and the 'War on Terror'." *Comparative Studies of South Asia, Africa and the Middle East* 24, no. 1: 182-195.

Stevens, J. (2006). "Prisons of the Stateless: The Dereliction of UNHCR." *New Left Review* 42: 53-67.

Listen to Judith Butler discuss the BDS campaign on Youtube

Tilley, Virginia. (2006). "The Secular Solution: Debating Israel-Palestine." *New Left Review* 38 (Mar Apr): 37-57.

## **12. Nov 27/29 Denying and asserting human rights accountability today: The role of intellectuals and social movements**

Film: Michael Walzer's Dewey Lecture will be shown in class. You can also read his lecture at: Walzer, Michael. 2010 (21 May). "Trying Political Leaders: Why George W. Bush is not like Louis XVI" *The New Republic*. (available on Macodrum website)

### **Required Reading:**

Sartre, Jean Paul on Bertrand Russell Tribunal

<http://web.archive.org/web/20041025164511/www.911review.org/Wget/www.homeusers.prestel.co.uk/littleton/v1101sar.htm>

[If this address doesn't work, google "Jean-Paul Sartre Inaugural Statement Bertrand Russell War Crimes Tribunal"]

Falk, Richard. *Achieving Human Rights*, chapter 4.

Supplementary reading:

Watch "Blueprint for Accountability" at

[http://fora.tv/2010/06/07/Blueprint\\_for\\_Accountability](http://fora.tv/2010/06/07/Blueprint_for_Accountability) esp. 3, 4, 5, 9, 19, 20, 23, 25, more, if possible.

Falk, Richard, Irene Gendzier, and Robert Jay Lifton. 2006. *Crimes of War: Iraq*. New York: Nation Books.

Sokmen, Muge GURSOY, ed. 2008. *World Tribunal on Iraq: Making the Case Against War*. Northampton, MA: Olive Branch Press.

Bartholomew, Amy. 2008. "'Strategies of the Weak': Contesting Empire's Law through Litigation Under International Law."

Andersson, Daniel Iagolnitzer, Vincent Rivasseau (eds) *International Justice and Impunity: The Case of the United States* (Atlanta : Clarity Press), 214-232.

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### **Canada and the War on Terror**

We will not focus on Canada's role in the 'war on terror' this year. Below are some readings if you are interested :

Sanders, Doug. 2007. "A World of Maher Arar's" *Globe and Mail* February 24.

Davidson, Gail. 2010. "Torture as Foreign Policy: The Omar Khadr Decision." February 10.

Byers, Michael and William Schabas. 2007. Letter to ICC "Re War Crimes and the Transfer of Detainees from Canadian Custody in Afghanistan."

<http://ceasefireinsider.files.wordpress.com/2007/05/byers-schabas-letter-to-icc-25-april-2007.pdf>

Oriola, Temitope. 2009. "Counter-Terrorism and Alien Justice: The Case of Security Certificates in Canada." *Critical Studies on Terrorism* 2:257-274.

Poole, T. 2007. "Recent Developments in the 'War on Terrorism' in Canada." *Human Rights Law Review* 7:633-42

Macklin, Audrey. 2008. "From Cooperation to Complicity, to Compensation: War on Terror, Extraordinary Rendition and Costs of Torture." *European Journal of Migration and International Law* 10:11-30

Charkaoui v. Canada (Citizenship and Immigration) [2007] S.C.J. No. 9.

Bell C. 2006. Subject to Exception: Security Certificates, National Security and Canada's Role in the 'War on Terror'. *Canadian Journal of Law and Society* 21:63-83

Wilke, C, Willis P. 2008. The Exploitation of Vulnerability: Dimensions of Citizenship and Rightlessness in Canada's Security Certificate Legislation. *Windsor Yearbook of Access to Justice* 26:25-51

Forcese C. 2007. The Obligation to Protect: The Legal Context for Diplomatic Protection of Canadians Abroad. *University of New Brunswick Law Journal* 57

Weissbrodt, David and Amy Bergquist. 2006. "Extraordinary Rendition: A Human Rights Analysis." *Harvard Human Rights Journal* 9:123-160, exclude pp.138-141; 145-147.

<http://www.law.harvard.edu/students/orgs/hrj/iss19/weissbrodt.pdf>

Mayer, Jane, "Outsourcing Torture," *New Yorker* 14 February 2005.

[http://www.newyorker.com/archive/2005/02/14/050214fa\\_fact6](http://www.newyorker.com/archive/2005/02/14/050214fa_fact6)

Arar Commission Inquiry. <http://www.ararcommission.ca/eng/index.htm>

ACLU, Extraordinary Rendition page <http://www.aclu.org/safefree/torture/rendition.html>

### **Other Sources:**

**News/Websites I turn to for these sorts of subjects:**

#### **Websites:**

The Real News            [www.therealnews.com](http://www.therealnews.com) (Canadian produced, international scope)  
Democracy Now           [www.democracynow.org](http://www.democracynow.org)  
Center for Constitutional Rights <http://ccrjustice.org> (New York-based; US Arar cases, extraordinary rendition, Guantanamo, torture cases etc.)  
Slate                         Slate.com (see, esp, Dahlia Lithwick essays)  
Salon                         Salon.com (see esp. Glenn Greenwald essays)  
Cageprisoners             [www.cageprisoners.com](http://www.cageprisoners.com)  
ALJAZEERA <http://english.aljazeera.net> (news)  
See "Empire" series etc.  
Prism Magazine online (founded and edited by Maher Arar) <http://prism-magazine.com/>  
(You can sign up for weekly email updates on matters concerning civil liberties, the Canadian security state etc.)

#### **Print Media (often with websites)**

##### Daily Newspapers:

Globe and Mail

New York Times

Washington Post (very good on Guantanamo, US Supreme Court etc.)

Los Angeles Times

The Guardian (see esp. Glenn Greenwald:

<http://www.guardian.co.uk/commentisfree/series/glenn-greenwald-security-liberty>

#### **Others, both print and websites:**

Znet

The New Yorker (watch for essays by Jane Mayer and Seymour Hirsch)

Counterpunch

Walrus

Ad Busters

Canadian Dimension

Harpers

Le Monde Diplomatique (in English as well as French)

The Nation

Foreign Policy in Focus

Middle East Report (watch for Lisa Hajjar, Richard Falk)

The New York Review of Books

London Review of Books

Cageprisoners (online)

ACLU

Amnesty International  
Human Rights Watch  
Council of Canadians  
Open Democracy  
The Hindu

**Scholarly Journals:**

\*Ethics and International Affairs  
\*European Journal of International Law  
\*Constellations  
\*Indiana Journal of Global Legal Studies  
\*Journal of Human Rights  
\*International Journal of Human Rights  
\*Leiden Journal of International Law  
\*Human Rights Quarterly  
\*Human Rights Review  
\*Millennium  
\*Alternatives  
\*Muslim World Journal of Human Rights  
\*New Left Review  
\*Peace Review  
\*Contemporary Political Theory  
\*German Law Journal  
\*South Atlantic Quarterly

Columbia Journal of Transnational Law  
Harvard Human Rights Journal  
Citizenship Studies  
Journal of Political Philosophy  
Review of the International Red Cross  
Wisconsin Law Review  
Ethics  
Cambridge Review of International Affairs  
International Journal of Constitutional Law  
Journal of International Criminal Justice  
Journal of Global Ethics  
Ratio Juris  
European Journal of Philosophy  
European Journal of Social Theory  
Political Theory  
Philosophy and Public Affairs  
Philosophy and Social Criticism  
Vanderbilt Journal of Transnational Law  
Buffalo Human Rights Law Review  
Journal of Social Philosophy  
Netherlands International Law Review  
Political Studies  
Modern Law Review