

Course Outline

COURSE:	LAWS 2105 A & B - Social Justice and Human Rights
TERM:	Fall 2010
PREREQUISITES:	One of LAWS 1000 [1.0], HUMR 1001 [1.0], PAMP 1000 [1.0], PSCI 1000 [1.0], (PSCI 1001 and PSCI 1002)
CLASS:	Day & Time: Section A: Wednesday: 2:35-5:25 pm Section B: Friday: 11:35 am-2:25 pm Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Dr. Amy Bartholomew
CONTACT:	Office: D581 LA (Loeb) Office Hrs: Friday: 2:35-4:00 pm Telephone: 613-520-2600 x 3696 <i>Please use email rather than telephone messages when possible.</i> Email: Amy.Bartholomew@carleton.ca

"Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see: http://www.carleton.ca/pmc/students/accom_policy.html . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by **November 15, 2010 for Fall exams and March 12, 2011 for Winter exams**. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

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? 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 with regard to 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 state actors? 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, the role of Canada within American empire 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?

REQUIRED TEXTS

Available at Octopus Books, 116 Third Avenue (just west of Bank Street in the Glebe):

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.

Please Note:

Most readings that are not in Falk or Arendt will be available on WEB CT. Those that are not are available on the web.

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

Supplementary readings are listed by week. They are there for your information, for future research etc. They are idiosyncratic, not exhaustive.

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

We will use the course website to communicate outside of class. Therefore, 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.

A discussion list is available on WebCT. I will not monitor it.

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.

To log into WebCT go to <https://webct.carleton.ca> and enter your username and password.

EVALUATION

Analytical Essay	40%	Due Monday October 22nd (Sections A & B)
Final Exam (2 hours)	60%	Regular exam period

The final examination will be given during the regular examination period. You will be permitted to bring 5 sheets of 8x11 paper into the exam with you with notes permitted on both sides. Nothing else may be brought into the examination.

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:

1. 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-). *Each* weekend day will count as one day. I will pick papers up at 6 pm on each weekend day. Anything submitted after 6 pm will be considered to have been submitted on the following 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 me before the due date. Extensions will only be granted if students have medical or other official documentation that I judge to be convincing. 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.

2. **Plagiarism will not be tolerated.** Please refer to the Departmental Course-Related Policy and Procedure Statement (<http://www.carleton.ca/law/policy.htm>). Plagiarism means passing off as one's own ideas or product the work of another, without giving credit to the source. *My position is that students who plagiarize should be expelled from university and I will work toward that end should I find you have plagiarized.*

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).

COURSE SCHEDULE:

1. **Sept. 10/15 Administrivia and Introduction**
2. **Sept. 17/22 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.
- 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.*
- Bartholomew, Amy. 2006. *Empire's Law: The American Imperial Project and the ' War to Remake the World'*. London: Pluto Press. "Introduction," pp. 1-17.

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.
- 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.

- Dubose, Lou. 2007. "Disappeared: Five Years in Guantanamo" *The Washington Spectator*, July 7, 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. 24/29 Human Rights, Globalization and Post September 11 Continued: Focusing on "Global War on Terror" and Torture

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

Required reading:

- 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
- Dworkin, Ronald. 2006 (May 24). "It is Absurd to Calculate Human Rights According to a Cost-Benefit Analysis." *The Guardian*.
- 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.

Supplementary reading:

- "War on Terror Through Muslim Eyes." 2010 (August 29). Aljazeera. <http://english.aljazeera.net/programmes/empire/2010/01/201012581059472955.html>
- Sands, Phillippe. 2008. "The Green Light." *Vanity Fair*. May 2008. <http://www.vanityfair.com/politics/features/2008/05/quantanamo200805?currentPage=1>
- Sands P. 2008. *The Torture Team: Rumsfeld's Memo and the Betrayal of American Values*. New York: Palgrave MacMillan.
- 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
- Paust, Jordan J. 2008-2009. The Absolute Prohibition of Torture and Necessary and Appropriate Sanctions. *Val. University Law Review* 43:1535.
- 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. 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 1/6 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.
- Hirsh, David. 2003. *Law Against Genocide: Cosmopolitan Trials*, pp. 38-49.
- Falk, Richard A., Gabriel Kolko and Robert Jay Lifton eds. 1971. *Crimes of War: A Legal, Political-Documetary, and Psychological inquiry into the responsibility of leaders, citizens, and soldiers for Criminal Acts in Wars*. New York: Random House. pp. 76-109.
- 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.
- 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.

Supplementary reading:

- 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 Row, 1966 [1944] esp, 440-458 on nazi law
- Zolo, Danilo. 2007. "Who Is Afraid of Punishing Aggressors?" *Journal of International Criminal Justice* 5(4): 799-807.
- Zolo, Danilo. 2009. *Victors' Justice: From Nuremberg to Baghdad*. London: Verso.
- 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/trials/nuremberg/Alstoetter.htm>

5. Oct. 13/15 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. **You are responsible for reading the entire book, but concentrate most closely on pp. 3-150; 206-298.**
- Hirsh, David. 2003. *Law Against Genocide: Cosmopolitan Trials* 23-24, 27-31, 33-35.

Supplementary reading: See the following week

6. Oct. 20/22 After Nuremberg: Arendt's Analysis**Required reading:**

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

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:

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

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.

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.

Parekh, Serena. 2004. "A Meaningful Place in the World: Hannah Arendt on the Nature of Human Rights." *Journal of Human Rights* 3:41-53.

7. Oct. 27/29 The Nuremberg Effect: Cosmopolitan Law and Universal Jurisdiction**Required reading:**

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

Wilke, Christiane. 2005. "A Particular Universality: Universal Jurisdiction for Crimes Against Humanity in Domestic Courts." *Constellations* 12 (1): 83-102.

Essays for 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>

Supplementary:

- 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
- 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
- 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. Nov. 3/5**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.

Essay for 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.
- Dezalay, Yves and Brian G. Garth. 2007. "Law, Class, and Imperialism." Unpublished manu.
- Dezalay, Yves and Brian G. Garth (2007). "Law, Lawyers and Empire: From the Foreign Policy Establishment to Technical Legal Hegemony." *Cambridge History of American Law* - forthcoming.

9. Nov. 10/12 Just War, or Just Other Wars? The Bush Doctrine, the Invasion of Iraq and the 'Global War on Terror': Current challenges to global responsibility, justice and legality. Or, the rise of empire's law.

Film: *Imperial Grand Strategy* - Noam Chomsky. 2005 May be screened in class.

Required reading:

- Ignatieff, Michael. "The Burden." *The New York Times Magazine* (January 5, 2003): 22ff (from week 8)
- Habermas, Jürgen. "Interpreting the Fall of a Monument." *Constellations* 10(3): 364-370. Also in Amy Bartholomew, (ed.) *Empire's Law*, 44-51.
- 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/opt/OTP_letter_to_senders_re_Iraq_9_February_2006.pdf

Supplementary:

- 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>
- Amnesty International. 2005. "Amnesty International Press Release: Report 2005: A Dangerous New Agenda" <http://news.amnesty.org/index/ENGPOL100062005>
- "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. 17/19 The 'Global War on Terrorism': Challenges to Human Rights and Legality**Required Reading:**

- Bartholomew, Amy. "Empire's Law and the Contradictory Politics of Human Rights," in Pp. 161-189 Bartholomew, Amy (ed.) *Empire's Law*.
- 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.

Supplementary reading:

See readings listed under weeks 2 and 3.

- Bartholomew, Amy. 2010 (in press). "Defending Legality in the Age of Empire's Law," in Richard Falk, (ed.) *Legality and Legitimacy in the International Order*, 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.
- 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
- 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, AA. 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
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12. Dec. 1/3 Conclusion, Wrap-up, Looking Forward

Film: Michael Walzer's Dewey Lecture will be shown in class.

Required Reading:

Sartre, Jean Paul on Bertrand Russell Tribunal

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Watch at least part of: "Blueprint for Accountability" at

http://fora.tv/2010/06/07/Blueprint_for_Accountability Watch 3, 4, 5, 9, 19, 20, 23, 25, more, if possible.

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Bartholomew, Amy

Other Sources:**News/Websites I like for these sorts of subjects:****Websites:**

The Real News www.therealnews.com (Canadian produced, international scope)
 Democracy Now www.democracynow.org
 Center for Constitutional Rights <http://ccrjustice.org> (New York-based; US Arar cases, extraordinary rendition, Guantanamo etc.)
 Cageprisoners www.cageprisoners.com
 ALJAZEERA <http://english.aljazeera.net>
 See "Empire" series etc.

PRINT MEDIA (often with websites)**Daily Newspapers:**

Globe and Mail
 Toronto Star
 New York Times
 Washington Post (very good on Guantanamo, US Supreme Court etc.)
 Los Angeles Times
 Financial Times
 The Economist
 The Guardian

Others, both print and websites:

Znet
 Counterpunch
 Walrus
 Ad Busters
 Canadian Dimension
 Harpers
 Le Monde Diplomatique (in English as well as French)
 The Nation
 Foreign Policy in Focus
 Middle East R P (watch for Lisa Hajjar)
 The New Yorker (esp. Seymour Hirsch, Jane Mayer)
 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
 *Leiden Journal of International Law
 *Human Rights Quarterly
 *Human Rights Review
 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
 *Millennium
 *Alternatives
 *Muslim World Journal of Human Rights
 *New Left Review
 *Peace Review
 Netherlands International Law Review
 Political Studies
 Modern Law Review
 *German Law Journal
 *South Atlantic Quarterly