
COURSE OUTLINE

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

PREREQUISITES: one of LASWS 1000 [1.0], HUMR 1001 [1.0], PAMP 1000 [1.0], PSCI 1000 [1.0], (PSCI 1001 and PACI 1002).

TERM: Fall 2011

SECTION A: Day & Time: Monday, 11:35-2:25
Room: Check with Carleton Central for current room location

SECTION B: Day & Time: Thursday, 11:35-2:25
Room: Check with Carleton Central for current room location

INSTRUCTOR: Dr. Amy Bartholomew

CONTACT: Office: Loeb D 581

OFFICE HOURS: Monday, 3:00-4:30

Email: 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.

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 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 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. We will consider a case study ‘close to home’ of the use of human rights by a student group to pressure a state – in this case Israel – to live up to its human rights obligations.

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.

Not at Octopus Books (but you may order through them) but required:

3. Hessel, Stephane. 2011. “Indignez Vous!” Available in English in the 7 March 2011 issue of *The Nation*. To access it, you require a subscription to *The Nation* which you can get online (well worth having for \$18!). Or, the pamphlet, *Time for Outrage: Indignez Vous!* with identical content to *The Nation*’s version can be purchased for \$8-11. I leave it to you to sort out how to get your hands on this stirring pamphlet. We read it for week 11.

Please Note:

Most readings besides Falk, Arendt, and Hessel are available on the web. It is important that you know how to and can access journal articles through the Macodrum 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 is available for you on WebCT. I will not monitor it.

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

EVALUATION

Analytical Essay **40%** **Due in class October 27 (Section B), October 31 (Section A)**
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 **1** sheet 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. 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. 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.
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).

NOTE ON ACADEMIC ACCOMMODATIONS: "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://www2.carleton.ca/pmc/students/accommodations> . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by 11 November 2011 for December exams and 7 March 2012 for April exams. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

COURSE SCHEDULE:

1. Sept 8/12 **Administrivia and Introduction**
2. Sept 15/19 **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 and on webct
- Bartholomew, Amy. 2006. *Empire's Law: The American Imperial Project and the 'War to Remake the World'*. London: Pluto Press. "Introduction," pp. 1-17. 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.
- 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, Philippe. 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 22/26 **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" 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

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

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

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:

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*.

Sands, Phillipe. 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.

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. Sept 29/Oct 3 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. RSV
- Hirsh, David. 2003. *Law Against Genocide: Cosmopolitan Trials*, pp. 38-49. Available as ebook on Macodrum
- 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. RSV
- 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. RSV

Supplementary reading:

- 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 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/ftrials/nuremberg/Alstoetter.htm>

THURSDAY OCTOBER 6 CLASS IS CANCELLED.

MONDAY OCTOBER 10 UNIVERSITY HOLIDAY – THANKSGIVING

5. Oct 13/17 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 focus on pp. 3-150; 206-298. RSV**

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

6. Oct 20/24 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. On RSV

Supplementary reading:

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

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.

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.

- 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 27/31 The Nuremberg Effect: Cosmopolitan Law and Universal Jurisdiction

Required reading:

- Eleftheriadis, Pavlos. 2003. "Cosmopolitan Law," *European Law Journal*, 9, no. 2 (April): 241-263; 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
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

- 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 3/7 **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/05iraqt.html?ex=1186977600&en=74b1f238b681b2da&ei=5070&emc=etal>
- 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 10/14 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)
- 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, Anthony. "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.icccpi.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
- 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 17/21 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. 2011 (in press). "Defending Legality in the Age of Empire's Law," in Richard Falk, Ramesh Thakur and Vesselin Popovski (eds.) *Legality and Legitimacy in International Order*. Oxford University Press.
- 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
- 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
- JCo. 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
- 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.
- 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 24/28 Human rights and political struggles today: A case study

Required reading:

Hessel, Stephane. 2011. "Indignez Vous!" Available in English in the 7 March issue of *The Nation*. To access it, you require a subscription to The Nation. (Well worth having for \$18!) Or, the pamphlet, *Time for Outrage: Indignez Vous!* with identical content to *The Nation's* version can be purchased as a pamphlet for \$8-11. I leave it to you to sort out how to get your hands on this stirring pamphlet.

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>

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:

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. Dec 1/5 Denying and asserting human rights accountability today: The role of intellectuals and 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 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 Humanitarian Law,” in Nils Andersson, Daniel Iagolnitzer, and Diana G. Collier, (eds.) *International Justice and Impunity: The Case of the United States*, Clarity Press, 2008), 214-231. Originally appeared in French edition, Nils Andersson, Daniel Iagolnitzer, Vincent Rivasseau (eds) *International Justice and Impunity: The Case of the United States* (Atlanta : Clarity Press), 214-232.

We will not focus on the role of Canada 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. (Headnote)
- 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
- 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 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, torture cases etc.)
Cageprisoners 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
Toronto Star
New York Times
Washington Post (very good on Guantanamo, US Supreme Court etc.)
Los Angeles Times
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 Report (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
- *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
- *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