

Course Outline

COURSE: LAWS 4106A - Law and Violence

TERM: Fall 2011

CLASS: Day & Time: Tuesdays, 14:35-17:25
Room: Please check with Carleton Central for current room location

PREREQUISITE: 4TH Year Honours Standing

INSTRUCTOR: Anette Sikka
(Contract)

CONTACT: TELEPHONE: 613-265-5360
EMAIL: asikk077@uottawa.ca
OFFICE: B442LA – Contract Instructors' Office
OFFICE HRS: TBA

"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 DESCRIPTION

This class introduces key theoretical and historical readings on the relationship between law and violence. Are they mutually exclusive forms of human action? How do systems of law understand, confront, and enable violence? Such questions will be considered in historical contexts of the nation-state and the global legal order. We will read classic authors in the history of international law and discuss the theoretical moves made by contemporary critical legal theorists and international scholars.

In order to show the effects of their ideas in practice, we will consider four case studies: first, we will discuss the ways in which the Canadian state may have promoted or allowed violence against Aboriginal Peoples in regulating through law; secondly we address the law's regulation of domestic violence and violence against women both domestically and internationally; third we will move to the 1999 NATO intervention in Kosovo and reactions to the justification of force on humanitarian grounds; and lastly we contrast the intervention in Kosovo with the current conflict and development processes in Iraq.

The class will be based on lectures, discussions and in-class activities. A variety of learning tools will be employed including viewing of videos, invited speakers, and case-based learning. Each student is expected to do the background readings for each class and to be prepared to engage in discussion and analysis of the relevant issues.

REQUIRED TEXTS

Students require **Bruce Lawrence and Aisha Karim eds, *On Violence*** (Duke University Press) and the Coursepack for Laws 4106A, both will be available at: Octopus Books, 116 Third Ave, off Bank Street. (613) 233-2589, <http://www.octopusbooks.org>. A copy of the same course pack is on reserve at the library. You may take it out to read and photocopy, but please make sure to put all items back in the same order. In addition, links to additional materials will be posted through the WebCT/Ares library system and assignments will be posted using WebCT. All students will require access to the university's WebCT system.

EVALUATION

(All components must be completed in order to get a passing grade)

10% - Attendance and Participation

45% - Three critical response papers (15% each)

45% - Final paper

10% - Completion of the allocated readings and attendance and participation in class will be considered part of students' attendance and participation mark.

45% - Students must submit three critical response papers throughout the semester. Critical Response Papers are short essays that offer a critical analysis of or argument about key issues from assigned readings. You choose the readings you write about. This can be one of the readings assigned for the week, or all of them, or some of them. You choose a question and argument that addresses a major point raised in the readings. The goal is not to summarize the readings, but to provide a critical response to them. These should be approximately 4-5 pages each. The first response paper has to be submitted no later than noon on October 3rd. The second response paper is due no later than noon October 24th. The third response paper is due no later than noon on November 14th. You cannot write more than one response per week. Students may be asked to discuss their papers in class.

40% - The research paper challenges you to develop a more sustained argument in 12-15 double-spaced pages based on readings from this class and outside research. The research paper is due at 5pm December 5th. Over the course of the term, you will have to submit an initial paper topic (due October 25th) and a paper draft or outline including a bibliography with at least 6 references not from the readings (due November 15th). Those are mandatory but not graded. You will not be allowed to hand in a paper without these initial submissions.

Note: Late assignments will be marked down **one half-letter grade for each day submitted after the due date**. Computer failure and heavy workload will not be acceptable excuses for late assignments.

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**CLASS SCHEDULE (Subject to Modification)**

**September 13th :** Introduction

**September 20th:** Violence – Concepts and Dialectics

**Readings:**

Text, *On Violence*, pp 27-61; 416-443

WebCT links:

- 1) Max Weber, "Politics as a Vocation" pp TBD

**September 27th:** Violence and the State

**Readings:**

Text: *On Violence*, 268-285; 292-313; 444-471

WebCT links:

- 1) Jacques Derrida, "Force of Law: The 'Mystical Foundations of Authority'": pp TBD
- 2) Drucilla Cornell "The Violence Of The Masquerade: Law Dressed Up As Justice" (1989) 11 Cardozo L. Rev. 1047

**\*1<sup>st</sup> critical response paper due before noon October 3<sup>rd</sup>**

**October 4th: International Law - Violent underpinnings*****Readings:******Coursepack:***

- 1) Antonio Cassese, *International Law*, 2nd edition: pp TBD
- 2) Antony Anghie, *Imperialism, Sovereignty, and the Making of International Law*

***WebCT links:***

- 1) David Kennedy, "International Law and the Nineteenth Century: History of an Illusion"
- 2) Jean Cohen, "Whose Sovereignty? Empire versus International Law"
- 3) Amy Kaplan, "Violent Belongings and the Question of Empire Today"

***Additional Recommended Readings***

- 1) Nico Krisch, "International Law in Times of Hegemony: Unequal Power and the Shaping of the International Legal Order," *European Journal of International Law*, Vol. 16, No. 3 (2005), 369-408.
- 2) Steven R. Ratner and Anne-Marie Slaughter, "Appraising the Methods of International Law: A Prospectus for readers." *American Journal of International Law* 93 (1999), 291-302.
- 3) Casper Sylvest, "„Our Passion for Legality“: international law and imperialism in late nineteenth century Britain." *Review of International Studies* 34 (2008), 403-423.
- 4) Covenant of the League of Nations (1919)

**October 11th: Imperialism and the Other*****Readings:***

*Text: On Violence*, 472-490

***Coursepack:***

- 1) Frédéric Mégret, "From 'savages' to 'unlawful combatants': a postcolonial look at international humanitarian law's 'other'"

***WebCT links:***

- 1) Elbridge Colby, "How to fight Savage Tribes"
- 2) Sven Lindqvist, "Bombing the Savages."
- 3) Ikechi Mgbefji, "The civilized self and the barbaric other: imperial delusions of order and the challenges of human security."

**October 18th: Aboriginal Peoples*****Readings:***

*Text: On Violence*, 472-490

***Coursepack:***

- 1) Francisco de Vitoria, "On the American Indians," pp TBD
- 2) Robert Williams, *The American Indians in Western Legal Thought*, pp TBD

***WebCT links:***

- 1) Royal Commission on Aboriginal Peoples Part Two: Section 9 (subsections 8 & 9), Section 10

***\*2nd critical response paper due before noon October 24th***

**October 25th: Aboriginal Peoples cont ...*****Readings:******Coursepack:***

- 1) Joseph Eliot Magnet, *Litigating Aboriginal Culture* pp TBD

***WebCT links:***

- 1) Ontario Human Rights Commission: *Paying the Price, the Human Cost of Racial Profiling*, pp. 54-66

**Additional Recommended Readings**

- 1) Andrew Orkin, When the Law Breaks Down: Aboriginal Peoples in Canada and Governmental Defiance of the Rule of Law [http://www.ohlj.ca/archive/articles/41\\_23\\_orkin.pdf](http://www.ohlj.ca/archive/articles/41_23_orkin.pdf)
- 2) Native Women's Association of Canada: Violence Against Aboriginal Women and Girls - <http://www.laa.gov.nl.ca/laa/naws/pdf/nwac-vaaw.pdf>

**\*Paper topics due at the beginning of class**

**November 1<sup>st</sup>: The Law and Violence Against Women ...****Readings:**

Text: *On Violence*, 255-261; 286-291

**WebCT links:**

- 1) Hilary Charlesworth, "Feminist Method in International Law."
- 2) Minow, Martha L. "Words and the Door to the Land of Change: Law, Language, and Family Violence"

**Additional Recommended Readings**

- 1) Charlotte Bunch, "Womens Rights as Human Rights: Towards a Re-vision of Human Rights" (link provided on Web CT)
- 2) Minow, Martha L. "Between Intimates and Between Nations: Can Law Stop the Violence?" (link provided on WebCT)

**November 8<sup>th</sup>: Violence Against Women cont. – Prostitution and the Law****Readings:****WebCT links:**

- 1) Sherene Razack: "Gendered Racial Violence and Spatialized Justice: The Murder of Pamela George"
- 2) John Lowman "Violence and the (Outlaw) Status of Street Prostitution"
- 3) Bedford v. Canada, pp TBD

**\*3<sup>rd</sup> critical response paper due before noon November 14th**

**November 15<sup>th</sup>: Humanitarian intervention – the case of Kosovo****Readings:**

Text: *On Violence*, 314-333

**Coursepack:**

- 1) Anne Orford, *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law*

**WebCT links:**

- 1) Jürgen Habermas, "Bestiality and Humanity: A War on the Border between Legality and Morality,"
- 2) Final Report to the Prosecutor by the Committee established to Review the NATO Bombing Campaign Against the Federal Republic of Yugoslavia. Pp TBD

**\*Draft of final paper due at the beginning of class**

**Recommended Readings**

- 1) Hehir, Aidan (2008) *Humanitarian intervention after Kosovo: Iraq, Darfur and the record of global civil society*. Palgrave Macmillan, Basingstoke (Reserve)

**November 22<sup>nd</sup>:**      **Operation Iraqi Freedom and PMC's*****Readings:******Coursepack:***

- 1) Simon Chesterman & Chia Lehnardt eds., *From Mercenaries to Market: The Rise and Regulation of Private Military companies* Pp tbd

***WebCT links:***

- 1) Eric Stover et al., "Justice on hold: Accountability and Social Reconstruction in Iraq"
- 2) Perveen Ali, "'I am Iraq': Law, life and violence in the formation of the Iraqi state"
- 3) Alexandre Faite, "Involvement of Private Contractors in Armed Conflict: Implications under International Humanitarian Law"

***Recommended Readings***

- 1) E.L. Gaston, "Mercenarism 2.0? The Rise of the Modern Private Security Industry and Its Implications for International Humanitarian Law Enforcement" (2008) 49(1) Harvard International Law Journal 221. (link provided on WebCT)
- 2) Mark Danner, "US Torture: Voices from the Black Sites", New York Review of Books 56:6, 9 April 2009 (website link provided on WebCT)
- 3) Marnia Lazreg, *Torture and the Twilight of Empire: From Algiers to Baghdad*. Princeton University Press, 2008 (Reserve)
- 4) Tomaz Mastnak, *Crusading Peace. Christendom, the Muslim World and Western Political Order*. University of California Press, 2001 (Reserve)

**November 29<sup>th</sup>:**      **Wrap up and review**

***Final research paper due at 5pm December 5<sup>th</sup>***