

Course Outline

COURSE:	LAWS 4603 – Transnational Justice
TERM:	Fall 2013
PREREQUISITES:	Fourth Year Honours Standing
CLASS:	Day & Time: Tuesday, 14:25-17:25 Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Doris Buss
CONTACT:	Office: D495 LA Office Hrs: Telephone: 613-520-2600 x. 8011 Email: doris.buss@carleton.ca

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 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/>

REQUIRED TEXTS

Primo Levi. 1989. *The Drowned and the Saved*, available for purchase from *Octopus Books*, 116 Third Ave, Ottawa, ON; tel: (613) 233-2589.

All other materials are available on line and/or in the Carleton library.

Assignments:

Critical Comment on academic reading (complete 3) (5% for the first and second, 10% for the third) (see below)	20%
Short essay on course readings (complete 1)	20%
Take-home exam:	60%

Critical comments are due at the start of class on the week where the reading is scheduled. Late submissions within 24 hours will be accepted but with a 3 mark deduction. Submissions more than 24 hours late will not be accepted. The same rules apply to the short essay.

The comment and the essay can be handed in in person (if on time) or on CU Learn.

The take-home exam must be handed in via CU Learn. Late submissions will not be allowed without an appropriate doctor's note (or other, as relevant).

EVALUATION CRITERIA

a. ***Critical Comments:** You are required to write three comment pieces on three different academic (secondary) readings from three different weeks (ie you cannot produce more than one comment on readings from the same week). These should be 2-3 pages long (but no more than 4), and provide a succinct and accessible overview of the article, identifying first: the author's main point, the underlying problem that gave rise to the author's intervention, and the means by which the author makes their argument (what tools of analysis do they draw upon; what subjects/material do they explore): about 1 page. Second: raise and then explore questions and analytical lines of inquiry either stemming from the article (what are the implications of the author's arguments for the subject-matter, other readings and discussions in this course), or in relation to the article (engage directly with the author's argument and/or approach) (about 2-3 pages).*

See marking grid, CU Learn. **ONLY SECONDARY** sources (ie journal articles) can be used. **Readings marked with an asterisk (*) cannot be the subject of critical comment for this assignment.**

CRITICAL COMMENTS ARE DUE (without exception) AT THE START OF THE CLASS WHERE THE READING IS ASSIGNED.

b. Short opinion piece/blog post – This is a 4-6 page essay that explore the themes and arguments raised in all the readings in a given week.

The focus of the opinion piece/blog post should be on the primary sources required as part of the readings (usually the last reading or 2 in the list) and your commentary should consider how the themes/topics raised by the primary materials confirm, complicate, challenge, trouble, or raise further questions about the themes and arguments raised in the secondary sources (for that week or in the course more

generally).

These opinion pieces should be written for a popular audience and/or a non-academic audience with some knowledge about current events, and should resemble a longer opinion piece one might find in a magazine (Harper's, New Statesman) newspaper or a credible, on-line source, such as the Huffington post. That is, you should write in an engaging way, that catches the reader's attention; your commentary should include a short explanatory overview about the primary material you are referencing (what is it, where did it come from, why is it important), and then you should move onto the large themes you see raised by the material in light of the secondary readings for that week, and/or for the course more generally. This assignment invites you to marshal some of the theoretical and analytical insights you glean from the secondary sources (in this course or in others) in order to 'read' and discuss primary material, and the converse.

Only the weeks so noted on the Schedule and Readings can be used for this assignment.

You cannot write a critical comment on any of the readings included in the week's readings on which you write your opinion piece/blog post.

SCHEDULE AND READINGS

Sept 10 Introduction

- Introduction to themes of the course and course expectations.

Sept 17 The Making of a Field

- Brownyn Anne Leebaw. 2008. "The Irreconcilable Goals of Transitional Justice" *Human Rights Quarterly* 3: 95-118
- Rosemary Nagy. 2008. "Transitional Justice as Global Project: critical reflections" *Third World Quarterly* 29(2): 275-289.
- "Yugoslavia" , Judging the International Criminal Court, podcast, available from: <https://itunes.apple.com/us/itunes-u/judging-international-criminal/id385770485>

1. as you are listening to the podcast, take note of the terms and concepts used to justify and explain the need for and the drivers of international criminal prosecutions. Do the speakers in the podcast echo some of the justifications for transitional justice that Leebaw speaks of? Do you hear echoes of some of the trends and dynamics alluded to by Nagy?

2. How is the history of international criminal prosecutions - as a form of transitional justice - told by the various speakers in the podcast?

3. Why did the producers of this podcast end with the song "I fought the law"? Has the law 'won', do you think? and what has been 'won'?

Sept 24 Trials and the Legalization of Transitional Justice

- Cath Collins. 2010. "Human rights trials in Chile during and after the 'Pinochet years'" *International Journal of Transitional Justice* 4: 67-86.
- *"International Justice: Between Impunity and Show Trials", debate at SOAS (School of Oriental and Africa Studies, London), utube, available at: <http://www.youtube.com/watch?v=2QTBdPyQtEw>
- *Richard Dickers and Elise Keppler. 2004. *Beyond the Hague: Challenges of International Justice*, Human Rights Watch, <http://www.hrw.org/news/2004/01/26/beyond-hague-challenges-international-justice>
- *Alison Des Forges, *Leave none to tell the story: Genocide in Rwanda*, Human Rights Watch, pp. 1-27, available at: <http://www.hrw.org/legacy/reports/1999/rwanda/rwanda0399.htm>
- *Prosecutor v. Tadic, International Criminal Tribunal for Yugoslavia, Trial Judgement, 7 May 1997, paragraphs 53-102; 122-126; 154-179; (available from <http://www.icty.org/case/tadic/4#tjug>)

Recommended:

- Martti Koskenniemi. 2004. "Between Impunity and Show Trials", guest lecture series of the Office of the prosecutor, ICTY, available at <http://www.unesco-phil.uni-bremen.de/dokumente/Institutionen/20040805Koskenniemi.pdf>
 - Ruti Teitel. *Transitional Justice*. Oxford University Press, Ch. 2 "Criminal Justice";
1. *Leave None to Tell the Story* was, for many years and maybe still is, the definitive account of the Rwanda genocide. While reading the overview section, consider how the story of the genocide is told. Who are the wrongdoers? What factors are identified as causing the genocide? What role did 'elites' play? What role did 'everyman' play? Are there ways in which this account of the genocide makes criminal trials well suited to addressing the perpetrators of genocide? In what ways might criminal trials be ill-suited to addressing the genocide? Now consider the same for the 'context' section of the *Tadic* decision (of the ICTY).
 2. Collins suggests that the turn to trials in the South American context was influenced by a number of factors. What are they? In what ways might Dickers and Keppler see the cultural context of Chile, as Collins outlines, as both particular in time and place (to South America) but also generalizable?
 3. What are 'show trials' according to the different participants in the SOAS debate? How do the participants differ in their conceptions of the good and bad, right and wrong of 'show trials'?

Oct 1 Defining international crimes: The politics and law of naming genocide

You may make this week the focus for the short essay assignment.

- William Schabas, 2005. "Darfur and the 'Odious Scourge': The commission of Inquiry's findings on Genocide" *Leiden Journal of International Law* 18: 871-885;
- Mahmood Mamdani. 2007. "The Politics of Naming: Genocide, Civil War, Insurgency", *London Review of Books* 29(5): 5-8, March, available at: <http://www.lrb.co.uk/v29/n05/mahmood-mamdani/the-politics-of-naming-genocide-civil-war-insurgency>

- *Statute of the International Criminal Tribunal for the Former Yugoslavia, (CU Learn)
- **Prosecutor v. Krstic*, required: paragraphs 539 - 599; optional but recommended: paragraphs: 478-538;
- *"How video that put Serbia in dock was brought to light" *The Guardian* 5 June 2005, available from <http://www.theguardian.com/world/2005/jun/05/balkans.warcrimes>
- **A cry from the grave*, BBC documentary, available at: <http://www.youtube.com/watch?v=Flw801iX84>

Oct 8 Naming Harms and the Gender of Justice

- Fionnuala Ni Aolain. 2009. "Exploring a Feminist Theory of Harm in the Context of Conflicted and Post-conflict Societies", http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1507793
- Nicola Henry. 2010. "The Impossibility of Bearing Witness: Wartime Rape and the Promise of Justice" *Violence against Women* 16(1): 1098-1119.
- Kimberley Theidon. 2007. "Gender in Transition: Common Sense, Women and War", *Journal of Human Rights* 6: 453-478.
- **Prosecutor v. Jean-Paul Akayesu*, ICTR-96-4-T, 2 Sept 1998, paragraphs 112-129; 142-156; 416-460.

Oct 15 Testimony: Witnesses and Victims

You may make this week the focus of the short essay assignment.

- Fiona Ross. 2003. "On Having Voice and Being Heard: Some After-Effects of Testifying Before the South African Truth and Reconciliation Commission" *Anthropological Theory* 3(3): 325 -341;
- Anne Orford. 2005. "Commissioning the Truth", *Columbia Journal of Gender & Law* 15: 851 – end of article.
- Michelle Staggs Kelsall and Shanee Stepakoff. 2007. "When we wanted to talk about Rape: Silencing Sexual Violence and the Special Court for Sierra Leone", *International Journal of Transitional Justice* 1: 355-374.
- *Read one day/excerpts from one day of testimony of a witness, from one of the following list of transcripts:
 - o *Prosecutor v. Vujadin Popovic*, 6 September 2006, pp. 1171-1241. (*Witness Ahmo Hasic*)
 - o *Prosecutor v. Krstic*, *Witness DD*, 26 July 2000;
 - o *Prosecutor v. Milosevic*, *Witness B 1054*, 29 August 2003 (starts at beginning of the day)

Oct 22 Troubling Perpetrators

You may make this week the focus of the short essay assignment.

- Primo Levi. 1989. *The Drowned and the Saved*; [students are required to buy this book from Octopus books]
- Erin Baines. 2011. "Gender, Responsibility and the Grey Zone: considerations for Transitional Justice", *Journal of Human rights* 10: 477-493.
- Maria Baaz and Maria Stern. 2008. "Making Sense of Violence: Voices of Soldiers in the Congo (DRC)", *Journal of modern African Studies* 46 (1): 57-86.
- *Jean Hatzfeld. 2005. *Machete Season: The Killers in Rwanda Speak*, pp. 10-16; 21-26; 47-87; 108-124; 148-164. (on reserve)

Oct 29 Reading week

Nov 5 The politics of transitional Justice: case study Rwanda

You may make this week the focus of the short essay assignment.

- Thomson, Susan and Rosemary Nagy. 2011. "Law, power and Justice: what Legalism Fails to Address in the Functioning of Rwanda's Gacaca Courts", *International Journal of Transitional Justice* 5:11-30
- Peskin, Victor. 2005. "Beyond Victor's Justice? The Challenge of Prosecuting the Winners at the International Criminal Tribunals for the Former Yugoslavia and Rwanda" *Journal of Human Rights* 4: 213-231
- Rachel Ibrek. 2013. International Constructions of National Memories: The Aims and Effects of Foreign Donors' Support for Genocide Remembrance in Rwanda, *Journal of Intervention and Statebuilding* 7(2): 149-169.
- *Filip Reyntjens. 2011. "Letter to Hans Jallow, Chief Prosecutor, ICTR", available on CU LEARN.

Nov 12 Memorials and Memory

Guest Lecture – Professor Christiane Wilke

- Christiane Wilke. 2013. "Remembering Complexity? Memorials for Nazi Victims in Berlin", *International Journal of Transitional Justice* 7: 131-56.
- Other readings, TBA

Nov 19 Incoming Waves of Transitional Justice: Statebuilding and Rule of Law

- Lauren Marie Balasco. 2013. "The Transitions of Transitional Justice: Mapping the Waves from Promise to Practice" *Journal of Human Rights* 12: 198-216.
- Kathryn Sikkink. 2008. "From Pariah State to Global Protagonist: Argentina and the Struggle for International human Rights" *Latin American Politics and Society* 50(1): 1-29
- *OECD. 2008. *Concepts and Dilemmas of Statebuilding in Fragile Situations: From fragility to resilience*, *Journal of Development* 9(3) (available on line).

Nov 26: Troubling Justice through the Rule of Law

- Sundya Pahuja. 2011. *Decolonising International Law: Development, Economic Growth and the Politics of Universality*, chapter 5, "Development and the Rule of (international) law" ;
- Park, A.S.J. (2010). Peacebuilding, the rule of law and the problem of culture: Assimilation, multiculturalism, deployment. *Journal of Intervention and Statebuilding*. 4(4), 413-432.

Dec 3 – **Wrap up**