

## DEPARTMENT OF LAW

## COURSE OUTLINE

### **LAWS 5603 - *International Law and its Critical Others*** **Wednesday – 14:35-17:25**

**Doris E. Buss**

**LOEB 495**

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**Office hours: Thursdays 11:30-1:00**

#### **Assessments**

**NB:** See explanation below of the individual assignment requirements.

Essay or Book Review submitted during term:	30%
Annotations or Presentation submitted during term:	10%
Take-Home exam:	60%

#### **Assessment, weight and due dates**

1. a. **Essay/Presentation:** 30 % written essay, PLUS  
10% annotations

Each student is responsible for one essay to be submitted during the term. Students can choose from one of two **options**:

**Critical Commentary** on the readings from one of the weeks and included on a list to be circulated in class. Students must sign up for these *in advance and in class*. Select one of the readings from the list. You are responsible for writing a 7-10 page essay on that article, setting out the author's argument and then considering how the author's argument pertains to, challenges, reinforces, questions, complicates the course themes and particularly the RELATED themes emerging from that week's material. In some cases, the article under review may more directly engage with readings from an earlier week. In that case, a good critical commentary will reflect on those readings.

Annotations: In addition to the essay, write annotations on two **academic** sources (ie journal articles or books) that pertain to the topics/themes you raise in your commentary. Neither of these sources can be from the course materials. NB: academic journals are found in the library or from the library electronic journals. These are written by scholars and are normally peer-reviewed. Do not include activist publications or popular press items (such as magazine articles) without checking with me first.

**OR**

1. b. **Essay Book Report:** 30% written report PLUS  
10% presentation/Annotation

Write a 7-10 page critical book review from a list circulated in class. The book review should set out the book's themes/arguments, situate the book within the context of the subject area more generally, relate the book's themes/arguments to the course, and provide a critical analysis.

Presentation: The student will present their book review orally in class on the date specified next to the book on the list below. The WRITTEN essay must be submitted DURING class on the specified date. It must be type-written, using the Law Department's footnote style, with a bibliography. If more than one student signs up for a particular book, you must do your presentation as a group.

Alternative to Presentation: You may choose, instead of presenting the book, to write an annotation on only one additional academic source (see above) that is NOT in the course materials.

2. **Take-home exam** **60% due Monday 13 April 2009 .**  
*The exam will be distributed in class, Wed 1 April 2009.*

**\*\*\*\* IMPORTANT \*\*\*\* Submitting Assignments**

1. Students must complete ALL assignments to pass this course.
2. Extensions are NOT given out for any assignment except in very extreme circumstances and WITH supporting documentation (ie doctor's note, coroner's report)
3. Assignments due in class must be submitted IN CLASS. Assignments submitted otherwise will be marked late.
4. Late assignments will be deducted 2 marks/per day.
5. Any assignment submitted 7 days after the due date will be given a mark of '0'.

**Book Review Options**

S. Hopgood. *Keepers of the Flame: Understanding Amnesty International*. Ithaca, NY: Cornell U.P.

Alfred McCoy. *A Question of Torture*

P. Sands. 2008. *Torture Team*

David Kennedy. *The Dark Side of Virtue*

Hochschild. 1998. *King Leopold's Ghost*

J. Hagan. 2003. *Justice in the Balkans*

L. Melvern. 2000. *A People Betrayed: The Role of the West in Rwanda's Genocide*

Ismael. 2007. *A long way gone: Memoires of a boy soldier*

Miers, Suzanne. 2003. *Slavery in the twentieth century*

Antjie Krog, *Country of My Skull*

Flint and de Waal. *Darfur: A new history of a long war*.

**SCHEDULE****1. JAN 7 Introduction to course and general administration.****2. JAN 14 The (colonial) nature and origins of international law**

Currie, *Public International Law*, 2d ed., pp. 1-19; 83-94  
 Rothermund, *The Routledge Companion to Decolonization*, pp. 15-20; 41-52  
 Siba Grovogui, *Sovereigns, Quasi-Sovereigns and Africans*, pp., 54-76;  
 Anghie, Antony, "Francisco de Vitoria and the Colonial Origins of International Law" in *Laws of the Postcolonial*, pp. 89-104)

**3. JAN 21 Statehood and state sovereignty doctrine**

Currie, *Public International Law*, 2d ed., pp. 22-40; 56-65;  
 Anghie, Antony, Ch. 4 "Sovereignty and the post-colonial state" (196-235)  
 Diane Otto. "Subalternity and International Law: The Problems of Global Community and the Incommensurability of Difference" *Laws of the Postcolonial*, pp.. 145-175;  
 R.B.J. Walker. "State Sovereignty and the Articulation of Political Space/Time" *Millenium*: 445-459.

**4. JAN 28 Nongovernmental Organisations**

Book Review: *Keepers of the Flame*.

Case Study: Indigenous peoples. In addition to the readings (below), students should review the Amnesty International Canada page on indigenous rights, and in particular the AI Canada brief on the Declaration on the Rights of Indigenous Peoples, at [http://www.amnesty.ca/themes/indigenous\\_overview.php](http://www.amnesty.ca/themes/indigenous_overview.php); and

- Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Rodolfo Stavenhagen, Addendum, Mission to Canada (on web ct);

Boyle and Chinkin, *The Making of International Law*, pp. 41-74; 80-97;  
 Vivien Collingwood, "Non-governmental organisations, power and legitimacy in international society" *Review of International Studies* 32: 439-454 [on-line];  
 Rhiannon Morgan. 2004. "Advancing Indigenous rights at the UN" *Social & Legal Studies* 13: 481-483; 485-498 [on-line].

**5. FEB 4 Introduction to international human rights**

Book Review: *A Question of Torture* (McCoy) and *Torture Team* (Sands).

Case Study: Torture: Christopher Hitchens "Believe me its torture", *Vanity Fair*, <http://www.vanityfair.com/politics/features/2008/08/hitchens200808>;

- Worthington, "The Trail of Torture", *The Guardian*, oct 16, 2008, <http://www.guardian.co.uk/commentisfree/2008/oct/16/usa-quantanamo>
- Sands, "Torture is Illegal – and it never works", *The Guardian*, 2008; <http://www.guardian.co.uk/commentisfree/2008/nov/24/torture-jack-bauer-24-redemption>
- Recommended: review of NY Times special topic page on torture, at <http://topics.nytimes.com/top/reference/timestopics/subjects/t/torture/index.html?scp=1-spot&sq=torture&st=cse>

Review: Universal Declaration on Human Rights, the International Covenant on Civil and Political rights, and the Convention against Torture and other cruel.... All available at: <http://www2.ohchr.org/english/law/>

Costas Douzinas. 2007. *Human Rights and Empire*, pp. 8-26;  
 Makau Mutua. 2007. "Standard Setting Human Rights: Critique and Prognosis" *Human Rights Quarterly* 29: 547-630 [on-line]

Oona Hathaway. 2004. "The Promise and Limits of the International Law of Torture" in *Torture: A Collection*, Sanford, Levinson, ed. OUP.

Recommended: Susan Marks, "Apologising for Torture" *Nordic J of International Law* 73: 365.

**6. FEB 11 International Human Rights**

Book Review: *Slavery in the twentieth C* (Miers), and *A Long way gone* (Ismael)

Case Study: modern forms of slavery: in addition to the readings below, students should also look at:

- *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, Gulnara Shahinian, 2008 (on webct);
- Visit the BBC special report on slavery web-site:  
[http://news.bbc.co.uk/2/hi/in\\_depth/world/slavery/default.stm](http://news.bbc.co.uk/2/hi/in_depth/world/slavery/default.stm);
- A Sethi 2007. "Domestic Sex trafficking of aboriginal girls in Canada", 3(3) *First Peoples Child and Family Review* 57-71 [on web ct; avail on internet];
- Recommended: "Poverty, Gender and Human Trafficking in Sub-Saharan Africa", UNESCO report (web ct);

Review: *International Covenant on Social, Economic and Cultural Rights*, available on-line at <http://www2.ohchr.org/english/law/>

M Pieterse. 2007. "Eating Socioeconomic Rights: The Usefulness of Rights Talk to Alleviating Social Hardship Revisited" *Human Rights Quarterly* 29: 796-822. [on-line]

Craig Scott. 1999. "Reaching Beyond (without abandoning) the category of 'Economic, Social and Cultural Rights'" *Human Rights Quarterly* 21(3): 633-660 [on line]

**7. FEB 18 WINTER BREAK – NO CLASS****8. FEB 25 Domestic law, international law, legal pluralism**

John Currie, *Public International Law*, pp. 218-248;

Karen Knop, "Here and There: International Law in Domestic Courts" (2000) *NYU J Int L & Pol* 50

Paul Schiff Berman. 2007. "Global Legal Pluralism" *Southern Calif Law Rev* 80.

**9. MAR 4 International Criminal Law**

Book Review: *Justice in the Balkans*, (Hagan) and *A People Betrayed* (Melvern)

In addition to the readings, go to the ICTY home page (icty.org) and read the section 'ICTY at a glance';

Updated Statute of the International Criminal Tribunal for the Former Yugoslavia" (case book);

Security Council Resolution 808 (1993) (case book);

"Comment on background to the *Tadic* litigation before the International Criminal Tribunal for the Former Yugoslavia" Steiner et al *International Human Rights in Context*, 3d ed. Pp 1256-1261;

*Prosecutor v. Tadic*, Appeals Chamber decision (May 1997): paragraphs 127-179; 624-640; 644-649; 652-659 (on-line: available from <http://www.icty.org>).

*Prosecutor v. Akayesu*, Trial Chamber decision (Sept 1998), paragraphs 79-129; 416-452; 494-524 (on-line: available from: <http://69.94.11.53/default.htm> - go to 'cases', select 'Akayesu'; 'judgement and sentence' and then 'judgement'.

**10. MAR 11 International Criminal Law**

Book Review: Antjie Krog, *Country of My Skull*

In addition to the readings, review the following UN publication: "The Shame of War", available at 'irinnews', at <http://www.irinnews.org/InDepthMain.aspx?InDepthId=53&ReportId=71974>

Bronwyn Anne Leebaw, "The Irreconcilable Goals of Transitional Justice" *Human Rights Quarterly* 30: 95-118 **[on-line]**;

Campbell, Kirsten. 2007. The Gender of Transnational Justice *International Journal of Transitional Justice* 1: 411-432 **[on-line]**.

Binaifer Nowrojee. 2995. "Your Justice is Too Slow", report, available on-line from the UN Research Institute for Social Development, **[on-line]**:

[http://www.unrisd.org/80256B3C005BCCF9/\(httpPublications\)/56FE32D5C0F6DCE9C125710F0045D89F?OpenDocument](http://www.unrisd.org/80256B3C005BCCF9/(httpPublications)/56FE32D5C0F6DCE9C125710F0045D89F?OpenDocument)

**11. MAR 18 International Criminal Court/Universal Jurisdiction**

Book Review: *Darfur: A new history of a long war*;

In addition to the readings for this week, review the background to the current situation in the Sudan, by working through the BBC site on 'Sudan' at

[http://news.bbc.co.uk/2/hi/in\\_depth/africa/2004/sudan/default.stm](http://news.bbc.co.uk/2/hi/in_depth/africa/2004/sudan/default.stm);

- review the coverage on the ICC's charges against Sudan's Al Bashir. Begin with "Sudan's Head accused of war crimes", and related links, at: <http://news.bbc.co.uk/2/hi/africa/7504640.stm>;
- Recommended: "The Genocide in Darfur: Briefing paper", Save Darfur, available at the Save Darfur website, <http://savedarfur.org/pages/background/>

Amnesty International. 2004. 'International Criminal court Fact Sheet 1: Introduction to the International Criminal Court'

Philippe Sands, 2005. *Lawless World*, ch. 3, "A New International Court";

Kamari Clarke, 2007. "Global Justice, Local Controversies: The International Criminal Court and the Sovereignty of Victims" in *Paths to International Justice*, pp.134-158 [course materials];

Sands, Philippe. 2003. "International Law Transformed? From Pinochet to Congo..." *Leiden J of International Law* 16(1): 37-53 **[on line]**.

Wilke, Christianne. 2005. "A Particular kind of universality", *Constellations* 12 91): 83 **(on line)**

**12. MAR 25 Humanitarianism and International Law**

Book Reviews: Kennedy, *The Dark Side of Virtue*; and Hochschild, *King Leopold's Ghost*.

Mahmood Mamdani. 2005. "The politics of naming: Genocide, civil war and insurgency", *London Review of Books*, 8 March (available on line: [http://www.lrb.co.uk/v29/n05/mamd01\\_.html](http://www.lrb.co.uk/v29/n05/mamd01_.html))

Costas Douzinas. 2007. *Human Rights and Empire*, pp. 51-89;

Hilary Charlesworth. 2002. "International Law: A Discipline of Crises", *Modern Law Review* 65: 377-392 **[on-line]**;

Recommended: interview with Mahmood Mamdani and Amy Goodman, Democracy Now, available at [http://www.democracynow.org/2007/6/4/mahmood\\_mamdani\\_on\\_darfur\\_the\\_politics](http://www.democracynow.org/2007/6/4/mahmood_mamdani_on_darfur_the_politics)

**13. APR 1 Take-Home Exam distribution**