

POLITICAL SCIENCE 630: SEMINAR IN POLITICS

INTERNATIONAL CRIMINAL JUSTICE

FALL 2010

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Office Hours: Tu 1-3 and by appointment

This class will introduce students to some of the major debates around international criminal justice. We will focus on criminal tribunals established to deal with mass atrocity, and the questions of morality, politics, and culture that they raise.

Reading:

Five books are required, all available at KB Books.

- Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (1965).
- Gary Bass, *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals* (2000).
- Gerry Simpson, *Law, War and Crime: War Crimes Trials and the Reinvention of International Law* (2007).
- Mark Drumbl, *Atrocity, Punishment, and International Law* (2007).
- Tim Allen, *Trial Justice: The International Criminal Court and the Lord's Resistance Army* (2006).

All the readings not in these books are posted on Blackboard. It is **required** that you print out each week's readings and bring them to class.

Computers are not allowed to be used in class.

Grading and Assignments:

Your semester grade will be determined as follows:

- Weekly Response Papers: 30%
- Paper Proposal: 20%
- Final Paper: 50%

The **weekly response papers** should be 1-2 pages, single spaced. They should not be summaries of the readings, but rather your own critical assessment of the readings, in particular in the context of the broader themes of the class. You should address all the readings in each response paper.

The **paper proposal** will be due on November 18. For a topic, each student will select a specific international (or "hybrid") criminal tribunal or trial and critically assess it in terms of the themes

and questions we have discussed in the course. The proposal is to include a thesis statement, a brief account of the particular themes or questions you are going to address, a basic outline, and a short annotated bibliography.

The **final paper** is due Thursday, December 16. It is to be 15-20 pages, double spaced, not including notes and bibliography.

Plagiarism and Cheating:

Plagiarism or cheating of any kind will result in failure and will be reported to the University. For the SDSU Academic Senate Policy on plagiarism and cheating, see http://its.sdsu.edu/resources/turnitin/pdf/Plagiarism_AcadSen.pdf. If you have further questions or concerns, do not hesitate to contact me.

Reading Schedule

September 2: Introduction

September 9: The Eichmann Trial

Hannah Arendt, *Eichmann in Jerusalem*. Chapters 1-3, 6-8, 13-15, Epilogue and Postscript. (Be sure to read the last two.)

September 16: What is “Law,” what is International Law?

Judith Shklar, *Legalism* (1964). “Introduction: Law and Ideology,” “Part II: Law and Politics.” (Response paper should focus on this reading.)

Steven Ratner and Jason Abrams, *Accountability for Human Rights Atrocities in International Law: Beyond the Nuremberg Legacy* (2001). Read chapter 1 (3-25), skim chapters 2-4 (26-107), read chapter 6 (129-147), chapter 8 (160-167 & 182-186), and chapter 9 (187-227).

September 23: Transitional Justice and Trials

Martha Minow, *Between Justice and Forgiveness: Facing History after Genocide and Mass Violence* (1999). Chapters 1-3.

Ruti Teitel, *Transitional Justice* (2002). Chapter 2.

Pricilla Hayner, *Unspeakable Truths: Confronting State Terror and Atrocity* (2002). Chapters 1-3, 6-7, 12-13.

Marc Osiel, “Making Public Memory, Publicly,” in *Human Rights in Political Transitions: Gettysburg to Bosnia* (1999).

September 30: The Legalist Paradigm

Gary Bass, *Stay the Hand of Vengeance*. Chapters 1, 5-8, Afterword.

Payam Akhavan, "Beyond Impunity: Can International Criminal Justice Prevent Future Atrocities?" *American Journal of International Law* (2001).

October 7: Trials between Law and Politics

Otto Kirchheimer, *Political Justice: The Use of Legal Procedure for Political Ends* (1961). Chapter 1 "Introduction," and chapter 8 "Trial by Fiat of the Successor Regime."

Martti Koskeniemi, "Between Impunity and Show Trials," *Max Planck Yearbook of United Nations Law* (2002).

Immi Tallgren, "The Sense and Sensibility of International Criminal Law," *European Journal of International Law* (2002).

October 14: Paradoxes of War Crimes Trials

Gerry Simpson, *Law, War & Crime: War Crimes, Trials and the Reinvention of International Law* (2007).

Larry May, et al., "Symposium: Crimes against Humanity," *Ethics & International Affairs* (2006).

October 21: International Law and Western Power

Makau Mutua, "Savages, Victims, and Saviors: The Metaphor of Human Rights," *Harvard International Law Journal* (2001).

Makau Mutua, "Never Again: questioning the Yugoslav and Rwanda Tribunals," *Temple International and Comparative Law Journal* (1997).

Peter Rosenblum, "Save the Tribunals, Salvage the Movement: A Response to Makau Mutua," *Temple International and Comparative Law Journal* (1997).

Danilo Zolo, *Victor's Justice: From Nuremberg to Baghdad* (2009). Introduction, chapter 1, chapter 7.

Iris Marion Young, "Responsibility and Global Justice: A Social Connection Model," *Social Philosophy and Policy* (2006).

Arthur Jay Klinghoffer, "International Citizens' Tribunals on Human Rights," chapter 19 in *Genocide, War Crimes and the West* (2004).

October 28: Trials and Alternatives

Mark Drumbl, *Atrocity, Punishment, and International Law* (2007).

November 4: Transitional Justice "From Below"

Rosalind Shaw and Lars Waldorf, eds., *Localizing Transitional Justice: Interventions and Priorities after Mass Violence* (2010). Selections TBA.

November 11: No Class

Benjamin N. Schiff, *Building the International Criminal Court* (2008).
Chapters 3, 4, 8.

Kingsley Chiedu Moghalu, *Global Justice: The Politics of War Crimes Trials* (2006).
Chapter 6.

Henry Kissinger, "The Pitfalls of Universal Jurisdiction," *Foreign Affairs* (2001).

Kenneth Roth, "The Case for Universal Jurisdiction," *Foreign Affairs* (2001).

November 18 (Reschedule): The ICTR and Gacaca

Phil Clark and Zachary Kaufman, eds., *After Genocide: Transitional Justice, Post-Conflict Reconstruction and Reconciliation in Rwanda and Beyond* (2009). Selections TBA.

*****Paper Proposals Due*****

November 25: Thanksgiving**December 2: The ICC in Sudan**

Oxford Transitional Justice Research, "Debating International Justice in Africa" (2010). Part II, pp. 49-89.

Nicholas Waddell and Phil Clark, eds., *Courting Conflict? Justice, Peace and the ICC in Africa* (2008).

Mahmood Mamdani, "The New Humanitarian Order," *The Nation* (2008).

Skim the debate over the ICC at "Making Sense of Sudan" blog.
<http://blogs.ssrc.org/sudan/category/sudan/icc/>

December 9: The ICC in Uganda

Tim Allen, *Trial Justice* (2006).

Adam Branch, "Uganda's Civil War and the Politics of ICC Intervention," *Ethics & International Affairs* (2007).

Payam Akhavan, "The Lord's Resistance Army Case," *American Journal of International Law* (2005).

Erin Baines, "The Haunting of Alice: Justice and Reconciliation in Northern Uganda," *International Journal of Transitional Justice* (2007).

Thursday, December 16: Final Paper Due