

Global Justice:
International Law and Accountability for Gross Human Rights Violators
Spring 2012
LAFS 3000

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(By appointment in the evenings or on weekends)

Course Description: Despite substantial progress in recent decades in the international community's awareness of and actions against prolific human rights violators, systemic human rights violations continue to be carried out with impunity by states and non-state actors. However, the establishment of the International Criminal Court (ICC) and the emergence of international criminal law as enforcement mechanisms of international human rights norms present new opportunities and dilemmas for state and non-state actors in combating human rights violations. This course will begin with an overview of the foundational principles and concepts of international law and human rights, to include the sources of international law and the elements of the most serious violations of human rights, to include genocide, crimes against humanity, and war crimes. Students will explore the historical development of human rights laws and institutions. The course will analyze the challenges of transitional justice in post-conflict societies and the role of global institutions such as the United Nations and the ICC in investigating and bringing to justice individuals responsible for gross human rights violations. Students will also examine alternative approaches to post-conflict resolution, to include truth and reconciliation commissions and domestic criminal tribunals. The semester will conclude with case study presentations analyzing prospective cases against notorious human rights violators.

Requirements: The following assignments will constitute students' work and grades for this course:

- Class Participation: 10 percent
- Case Study Presentation: 10 percent
- Mid-term Exam: 20 percent
- 10-12 Research Paper: 30 percent
- Final Exam: 30 percent

Key Dates and Deadlines:

- Paper Proposal: March 1
- Mid Term Exam: March 22
- Paper Draft: April 5
- Research Paper: April 19
- Case Study Presentations: April 26 & May 3
- Final Exam: May 10

Deadlines: Unless otherwise noted, **ALL** assignments are due at the beginning of class on the date noted. ***Important: Students submitting late assignments will have their grade reduced by one letter grade for every 24 hour period that the paper is late after the due date.***

Lectures and Class Participation: Classes will be conducted through a mixture of lecture and discussion with student participation and debate highly valued. Class participation will constitute 10 percent of your grade for this course. Participation will be evaluated based on class attendance and the quality of your comments in class.

- *Attendance:* Student attendance will be taken each week. **Students with more than two unexcused absences will have their course grade reduced by one letter mark for the course for each absence beyond the two excused absences.** Students are expected to arrive on time for class.

Readings: This course will utilize assigned books, articles, and studies to examine an array of historical and contemporary human rights issues. Students will be expected to read all assigned reading materials in preparation for class discussion. Other than the required book list, readings will be available for online access via Desire 2 Learn. Any updates to the week's reading assignment will be posted online by the Sunday night before the Thursday class. Unless otherwise denoted with specific page numbers, students are responsible for reading the entire article cited. Students are *not* required to read *recommended* articles.

Required Book List: (Required books are highlighted in **bold** in the syllabus below.)

- Robertson, Geoffrey ***Crimes against Humanity: The Struggle for Global Justice***, (New York: New Bridge Press) Third Edition, 2006. ("Robertson")
- Henry J. Steiner, Philip Alston, & Ryan Goodman (eds.), ***International Human Rights in Context***, (Oxford: Oxford University Press), Third Edition, 2007. ("Steiner")
- Eric Stover and Harvey Weinstein, ***My Neighbor, My Enemy***, (Cambridge: Cambridge University Press), 2004. ("Stover")
- Kathryn Sikkink, ***The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics***, (New York: W.W. Norton & Co.), 2011. ("Sikkink")

Research Paper: Students will write a minimum 10-12 page paper (or longer if needed) research paper exploring the role of transitional justice institutions, theories, or principles as applied to a contemporary or historical conflict situation of the student's choice. The paper will include a central thesis and overview, an historical contextualization of the issue, an analysis of the challenges or opportunities at issue, and possible policy, legal, or organizational solutions to the problem. Research topics are not confined to issues we discuss in class. Students are encouraged to research and craft a topical thesis that is narrowly focused.

Paper Formatting: Students are required to use 12 point Times New Roman Font, 1 inch margins on all sides, page numbers, and double spacing. Students are permitted to uniformly use either the MLA/American Political Science Association or the Chicago Manual of Style Humanities systems of citation. **Severe penalties are imposed for students who fail to comply with the minimum length or formatting requirements.**

Academic Dishonesty: Breaches of academic honesty, to include cheating, **plagiarism**, and the unauthorized possession of examinations, papers, or other class materials will not be tolerated and will be immediately reported to the university's Honor Code. Students are urged to review proper citation practices to ensure compliance with the honor code. Lack of citation to another author's analysis constitutes plagiarism. See CU Boulder's Academic Integrity Policy at: <http://www.colorado.edu/policies/acadinteg.html>.

Exams: Both exams are **cumulative**. Students are responsible for **all** assigned reading and class discussion in preparing for the exams. Depending on class interest, I will offer a review session prior to each exam. Students will not be provided review outlines. **Exams can only be rescheduled in advance and for documented emergencies, illness or university sponsored programming.**

Case Study Presentations: Students will be assigned to small groups to research and study transitional justice issues in the assigned country. The group presentations will examine major social and political dynamics in the country and present options for pursuing justice against human rights violators. The articles provided are solely for basic background information and should be supplemented by students.

Meetings: Students are encouraged to meet with me early and often during or outside of office hours to identify substantive questions about the course, paper topic ideas, career planning, or to just say hello and get acquainted.

Course Outline and Readings:

Week 1	January 19	Introduction and Course Overview
Week 2	January 26	Foundations of International Law: Sources, Actors & Subjects

Overview

Shaw, Malcolm, *International Law* (Cambridge: Cambridge University Press), Sixth Edition, 2008, pp. 1-30; 43-54.

Sources

Custom

Shaw, Malcolm, *International Law* (Cambridge: Cambridge University Press), Sixth Edition, 2008, pp. 69-93.

Steiner, pp. 71-84.

Treaties

Shaw, Malcolm, *International Law* (Cambridge: Cambridge University Press), Sixth Edition, 2008, pp. 93-105.

Cases

Shaw, Malcolm, *International Law* (Cambridge: Cambridge University Press), Sixth Edition, 2008, pp. 105-123.

Actors & Subjects

States

Shaw, Malcolm, *International Law* (Cambridge: Cambridge University Press), Sixth Edition, 2008, pp. 195-216; 238-48.

Non-State Institutions

Shaw, Malcolm, *International Law* (Cambridge: Cambridge University Press), Sixth Edition, 2008, pp. 1282-1300; 1303-1323.

Individuals

Shaw, Malcolm, *International Law* (Cambridge: Cambridge University Press), Sixth Edition, 2008, pp. 248-264.

Week 3 February 2 Development of International Human Rights Law

Overview

Robertson, pp. 1-72; 89-114.

The Universalism of Human Rights?

Dembour, Marie-Benedicte, "What Are Human Rights? Four Schools of Thought," *Human Rights Quarterly*, Vol. 32, No. 1, Feb. 2010.

Steiner, pp. 517-530.

Recommended

Steiner, pp. 531-540.

Week 4**February 9****Key Principles & Actors of International Human Rights Law***Overview*

Shaw, Malcolm, *International Law* (Cambridge: Cambridge University Press), Sixth Edition, 2008, pp. 265-81.

The United Nations

Shaw, Malcolm, *International Law* (Cambridge: Cambridge University Press), Sixth Edition, 2008, pp. 302-331.

Responsibility to Protect and Hold Accountable

Robertson, pp. 288-296; 324-331.

“Selling Justice Short,” *Human Rights Watch: Why Accountability Matters for Peace*, 2009, pp. 10-21.

Stahn, Carsten, “Responsibility to Protect: Political Rhetoric or Emerging Legal Norm?” *The American Journal of International Law*, Vol. 101, No. 1 (Jan. 2007), pp. 99-120.

Sovereign Immunity

Steiner, pp. 1224-1239.

Universal Jurisdiction

Roth, Kenneth, “The Case for Universal Jurisdiction,” *Foreign Affairs* (Sept.-Oct. 2001).

“Selling Justice Short,” *Human Rights Watch: Why Accountability Matters for Peace*, 2009, pp. 108-116.

Steiner, pp. 1169-1176.

Week 5**February 16****Defining Justice & Gross Human Rights Violations: Genocide, Crimes Against Humanity and War Crimes***Justice and Forgiveness*

Wiesenthal, Simon, *The Sunflower: On the Possibilities and Limits of Forgiveness*, (New York: Schocken Books), 1969, pp. 3-103.

Genocide

Convention on the Prevention and Punishment of the Crime of Genocide, 1948, available at <http://www.un.org/millennium/law/iv-1.htm> .

Robertson, pp. 261-70.

Rome Statute of the International Criminal Court, Article 6, 1998, available at http://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE940A655EB30E16/0/Rome_Statute_English.pdf

Schabas, William, *Genocide in International Law*, (Cambridge: Cambridge University Press), 2000, pp. 14-24; 314-344.

Shaw, Malcolm, *International Law* (Cambridge: Cambridge University Press), Sixth Edition, 2008, pp. 430-33.

Crimes Against Humanity

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984.

Rome Statute of the International Criminal Court, Article 7, 1998, available at http://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE940A655EB30E16/0/Rome_Statute_English.pdf

Shaw, Malcolm, *International Law* (Cambridge: Cambridge University Press), Sixth Edition, 2008, pp. 436-38.

War Crimes

Rome Statute of the International Criminal Court, Article 8, 1998, available at http://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE940A655EB30E16/0/Rome_Statute_English.pdf

Shaw, Malcolm, *International Law* (Cambridge: Cambridge University Press), Sixth Edition, 2008, pp. 433-36.

Summary of The Geneva Conventions of 1949 and Their Additional Protocols, *International Committee of the Red Cross*.

Recommended

Grant Dawson and Rachel Boynton, “Reconciling Complicity in Genocide and Aiding and Abetting Genocide in the Jurisprudence of the United Nations *Ad Hoc* Tribunals,” *Harvard Human Rights Journal*, Vol. 21, 2008.

Week 6

February 23

Identifying Methods of Justice in Post-Conflict Societies

Overview

Bass, Gary Jonathan, *Stay the Hand of Vengeance*, (Princeton, NJ: Princeton University Press), 2001, pp. 3-36, 284-310.

Cohen, Stanley, *States of Denial: Knowing About Atrocities and Suffering*, (Malden, MA: Blackwell Publishers), 2001, pp. 76-116.

“Selling Justice Short,” *Human Rights Watch: Why Accountability Matters for Peace*, 2009, pp. 1-9.

Steiner, pp. 1331-1341.

Stover, pp. 1-20.

The Rule of Law and Transitional Justice in Post-Conflict Societies, United Nations Security Council, S/2004/616, 2004, available at <http://www.ipu.org/splz-e/unga07/law.pdf>.

Prosecutions

Orentlicher, Diane, “The Duty to Prosecute Human Rights Violations of a Prior Regime,” *The Yale Law Journal*, Vol. 100, No. 8 (Jun. 1991), pp. 2541-2551, 2601-2612.

“Selling Justice Short,” *Human Rights Watch: Why Accountability Matters for Peace*, 2009, pp. 18-34; 123-27.

Sikkink, pp. 10-28.

Sullivan, Kevin, “Churchill Urged Electric Chair for ‘Gangster Hitler,’” *Washington Post*, Jan. 2, 2006.

The Critics

Leebaw, Bronwyn Leebaw, “The Irreconcilable Goals of Transitional Justice,” *Human Rights Quarterly*, Vol. 30, No. 1 (Feb. 2008).

Osiel, Mark, “Why Prosecute? Critics of Punishment for Mass Atrocity,” *Human Rights Quarterly*, Vol. 22, No. 1 (Feb. 2000).

Recommended

Blumenson, Eric, “The Challenge of a Global Standard of Justice,” *Col. J. Transnt’l Law*, Vol. 44, No. 801.

Week 7 March 1 Historical International Criminal Tribunals

****Paper Proposal Due****

Nuremberg & Tokyo

Meron, Theodore, “Reflections on the Prosecution of War Crimes in International Tribunals,” *American Journal of International Law*, Vol. 100, No. 3 (Jul. 2006), pp. 551-560.

Robertson, pp. 273-280; 230-261.

Steiner, pp. 115-128.

Schabas, William, *Genocide in International Law*, (Cambridge: Cambridge University Press), 2000, pp. 30-42.

Latin America & Europe

Sikkink, pp. 31-83; 98-125.

Possible Film Viewing in Class

Nuremberg Trial of Major German War Criminals, *Landmark War Crimes Trials* (World Almanac Video, (1999).

Week 8 March 8 Analysis of Rwanda and Former Yugoslavia Tribunals

International Criminal Tribunal for The Former Yugoslavia

Bass, Gary, "Milosevic in the Hague," *Foreign Affairs*, May/June 2003.

Robertson, pp. 372-418.

"Selling Justice Short," *Human Rights Watch: Why Accountability Matters for Peace*, 2009, pp. 117-26.

Steiner, pp. 1256-1269.

Stover, pp. 29-47

International Criminal Tribunal for Rwanda

Robertson, pp. 49-63.

"Selling Justice Short," *Human Rights Watch: Why Accountability Matters for Peace*, 2009, pp. 82-85.

Steiner, pp. 1273-87.

Possible Film Viewing

Dusan Tadic War Crimes Trial, *Landmark War Crimes Trials* (World Almanac Video, 1999.

Recommended

Bass, Gary, *Stay the Hand of Vengeance*, (Princeton, NJ: Princeton University Press), 2001, pp. 206-75.

Week 9 March 15 The Rise of the International Criminal Court (ICC)

****Exam Review if Requested****

Clark, Janine Natalya, "Peace, Justice and the International Criminal Court," *Journal of International Criminal Justice*, 9 (2011).

"Courting History: The Landmark ICC's First Years," *Human Rights Watch*, 2008, pp. 4-8; 30-65.

Moghalu, Kingsley Chiedu, *Global Justice: The Politics of War Crimes Trials*, pp. 126-35.

Robertson, pp. 419-467.

Rome Statute of the International Criminal Court, Article 6, (1998), available at http://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE940A655EB30E16/0/Rome_Statute_English.pdf (skim).

Shaw, Malcolm, *International Law* (Cambridge: Cambridge University Press), Sixth Edition, 2008, pp. 410-17.

Steiner, pp. 1291-1305.

"The Rome Statute Review Conference," *International Center for Transitional Justice*, June 2010.

Recommended

Eric Posner and John Yoo, "Judicial Independence in International Tribunals," *Cal. L. Rev.*, Vol. 93, No. 1.

McCarthy, Conor, "Reparations under the Rome Statute of the International Criminal Court and Reparative Justice Theory," *The International Journal of Transitional Justice*, Vol. 3, 2009.

Week 10 March 22 Mid-Term Exam

Week 11 March 29 Spring Break – No Class

Week 12 April 5 Truth Commissions, Amnesties & Reparations

****Paper Rough Draft Due (Not Required)****

Truth Commissions

Ensalaco, Mark, "Truth Commissions for Chile and El Salvador," *Human Rights Quarterly*, Vol. 16, No. 4 (Nov. 1994).

Hayner, Priscilla, "Fifteen Truth Commissions, 1974-1994," *Human Rights Quarterly*, (Nov. 1994).

Robertson, pp. 312-23.

Steiner, pp. 1344-1352; 1357-67; 1368-72.

Tricia Olsen, Leigh Payne, et al., "When Truth Commissions Improve Human Rights," *The International Journal of Transitional Justice*, Vol. 4, 2010.

Van Zyl, Paul "Dilemmas of Transitional Justice: The Case of South Africa's Truth and Reconciliations Commission," *Journal of International Affairs* (Spring 1999), available at http://www.fathom.com/media/PDF/2392_van_zyl.pdf.

Amnesties

Ana Cutler Patel, Pablo de Greiff, & Lars Waldorf, (eds.) *Disarming the Past: Transitional Justice and Ex-Combatants*, (New York: Social Science Research Council), 2009, pp. 37-64.

Robertson, pp. 301-12.

"Selling Justice Short," *Human Rights Watch: Why Accountability Matters for Peace*, 2009, pp. 35-79.

Steiner, pp. 1341-1343.

Reparations

Ana Cutler Patel, Pablo de Greiff, & Lars Waldorf, (eds.) *Disarming the Past: Transitional Justice and Ex-Combatants*, (New York: Social Science Research Council), 2009, pp. 133-51.

Stover, pp. 121-36.

Week 13

April 12

Hybrid and Indigenous Justice Mechanisms

Indigenous & Local Justice Mechanisms

Ana Cutler Patel, Pablo de Greiff, & Lars Waldorf, (eds.) *Disarming the Past: Transitional Justice and Ex-Combatants*, (New York: Social Science Research Council), 2009, pp. 239-49.

Schabas, William, *Genocide in International Law*, (Cambridge: Cambridge University Press), 2000, pp. 386-401.

Rwanda Gacaca Courts

“Rwanda’s Gacaca Court’s,” *Public Radio International*, February 14, 2007.

Steiner, pp. 1319-30.

Stover, pp. 69-83.

Waldorf, Lars, “Mass Justice for Mass Atrocity,” *Temple Law Review*, Vol. 79, No. 1.

Hybrid Courts: Cambodia, Sierra Leone, & East Timor

Cheang, Sopheng, “Cambodian Tribunal Tries Khmer Rouge Leaders,” *ABC News*, June 27, 2011.

Evenson, Elizabeth, “Truth and Justice in Sierra Leone: Coordination Between Commission and Court,” *Col. Law Review*, 2004, pp. 730-47.

“Justice Delayed: Recent Developments at the Extraordinary Chambers in the Courts of Cambodia,” *Harvard Human Rights Journal*, Vol. 21.

Linton, Suzannah, “Cambodia, East Timor, and Sierra Leone,” *Crim. L. Forum*, Vol. 12, 2001.

Shaw, Malcolm, *International Law* (Cambridge: Cambridge University Press), Sixth Edition, 2008, pp. 417-29.

Steiner, pp. 1310-17; 1379-83.

Thul, Prak Chan, “One of the Darkest Hours of the Twentieth Century Up for Trial,” *Reuters*, Nov. 18, 2011.

Witness to Truth: Report of the Sierra Leone Truth & Reconciliation Commission, Introduction, 2004, pp. 7-20, available at: <http://www.sierra-leone.org/Other-Conflict/TRCVolume1.pdf>.

Week 14

April 19

Investigating and Selecting Appropriate Post-Conflict Justice Mechanisms

****Research Papers Due****

Annan, Kofi, “Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies,” *United Nations*, S/2004/616, 2004.

Findlay, Mark, “Activating a Victim Constituency in International Criminal Justice,” *International Journal of Transitional Justice*, Vol. 3, 2009.

John Hagan and Wenona Rymond-Richmond, *Darfur and the Crime of Genocide*, (New York: Cambridge University Press), 2009, pp. 1-29; 105-35.

Lambourne, Wendy, "Transitional Justice and Peace-building After Mass Violence," *International Journal of Transitional Justice*, Vol. 3, 2009.

Rebecca Horn, Simon Charters, and Saleem Vahidy, "Testifying in an International War Crimes Tribunal: The Experience of Witnesses in the Special Court for Sierra Leone," *International Journal of Transitional Justice*, Vol. 3, 2009.

Ramirez, Clara Barat, "Outreach Programs for Transitional Justice," *International Center for Transitional Justice*, Jan. 2011.

Stover, pp. 104-19; 85-100.

Recommended

Ana Cutler Patel, Pablo de Greiff, & Lars Waldorf, (eds.) *Disarming the Past: Transitional Justice and Ex-Combatants*, (New York: Social Science Research Council), 2009, pp. 191-220 (rehabilitating child soldiers); 159-181 (rehabilitating female combatants).

Sikkink, pp. 138-88.

Week 15 April 26 Case Study Exercise

Ivory Coast

Simons, Marlise, "Ex President of Ivory Coast to Face Court in Hague," *New York Times*, Nov. 29, 2011.

Colombia

"Colombia: Impact of the Rome Statute and the International Criminal Court," *International Center for Transitional Justice*, May 2010.

Libya

Simons, Marlise, "International Court Faces Key Test on Libya Captives," *New York Times*, Nov. 20, 2011.

Sudan

"Braced for the Aftershock," *The Economist*, Mar. 5, 2009.

Steiner, pp. 1306-09.

Syria

“Stop the Killing, U.N. Chief Tells Syria’s Assad,” *Reuters*, January 15, 2012.

Afghanistan

Boal, Mark, “The Kill Team,” *Rolling Stones*, March 27, 2011, available at <http://www.rollingstone.com/kill-team>

Yemen

Ahmed Al Haj and Ben Hubbard, “Yemen Immunity Law Sparks Debate Over Past Crimes,” *Associated Press*, January 15, 2012.

Week 16

May 3

Case Study Exercise Continued

****Review Session If Requested****

Other Information Resources:

General

Human Rights Watch:

www.hrw.org

Amnesty International:

www.amnesty.org

International Courts and Tribunals

International Court of Justice:

www.icj-cij.org

European Court of Human Rights:

www.echr.coe.int

Project on International Courts and Tribunals:

www.pict-pcti.org

Center for Transitional Justice:

www.ictj.org

Truth Commissions Digital Collections:

<http://www.usip.org/publications/truth-commission-digital-collection>

International Criminal Court for the Former Yugoslavia:

www.un.org/icty

International Criminal Court for Rwanda:

www.icttr.org

Special Court for Sierra Leone:

www.sc-sl.org

The Trial of Charles Taylor:

www.charlestaylortrial.org

Nuremberg War Crimes Trial:

http://avalon.law.yale.edu/subject_menus/imt.asp

International Organizations

Inter-American Commission on Human Rights:

www.cidh.org

Office of the High Commissioners on Human Rights

www.unhchr.ch

About Your Lecturer:

Ben Davis has nearly ten years of experience in national security, human rights, and terrorism related matters. Mr. Davis is an attorney with the Gilbert Law Group, concentrating on consumer safety, whistleblower and human rights litigation. From 2009-2011, he served as a Deputy District Attorney in the Denver District Attorney's Office where he chaired nearly sixty jury trials. Between 2005 and 2008, Mr. Davis served as a counterterrorism advisor in the Office of Terrorism and Financial Intelligence at the Department of the Treasury, where he specialized in Middle East and Gulf-based terrorism and illicit finance issues. In 2007, he co-directed the National Security Council's Iraq Threat Finance Cell in Baghdad, Iraq, an interagency initiative to investigate and target insurgency support networks for interdiction. In 2008, he established the first U.S. Treasury attaché position in Jerusalem, where he served as a senior U.S. representative to the Palestinian Authority on finance, economic, illicit crime and terrorism issues. From 2003-2005, he worked at the law firm, Motley Rice, LLC, investigating sources of al Qaeda financing on behalf of more than 5,500 September 11th victims in their civil action, *Burnett v. Al Baraka*. Between 2000 and 2002, Mr. Davis served as a legislative advisor to Senator Ernest F. Hollings (SC), where he advised the Senator on judiciary, foreign affairs, military and economic issues. He received a Bachelor's Degree in Foreign Service from Georgetown University, a Master's Degree in International Politics from the University of Chicago, and a juris doctor degree from the Columbus School of Law, Catholic University of America.
