

---

**COURSE:** LAWS 2105 Sections A & B - Social Justice and Human Rights  
Course Outline

**PREREQUISITES:** One of LAWS 1000, HUMR 1001, PAPM 1000, PSCI 1100,  
and PSCI 1200.

**TERM:** Fall 2014

**SECTION A:** Day & Time: Wednesday, 11:35-2:25  
Room:  
Please check with Carleton Central for current room location

**SECTION B:** Day & Time: Thursday, 11:35-2:25  
Room:  
Please check with Carleton Central for current room location

**INSTRUCTOR:** Dr. Amy Bartholomew

**CONTACT:** Office: Loeb D 581

**OFFICE HOURS:** Thursday, 12:00 to 1:30  
Email: [Amy\\_Bartholomew@carleton.ca](mailto:Amy_Bartholomew@carleton.ca)  
Telephone: 613 520-2600 x. 3696

**Please use my email address, above, to contact me rather than leaving telephone messages, when possible.**

---

### *Academic Accommodations*

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](mailto: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/>

### ***Plagiarism***

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence.

More information on the University's **Academic Integrity Policy** can be found at: <http://www.carleton.ca/studentaffairs/academic-integrity/>

### ***Department Policy***

The Department of Law and Legal Studies operates in association with certain policies and procedures.

Please review these documents to ensure that your practices meet our Department's expectations.

<http://www.carleton.ca/law/student-resources/department-policies/>

---

## **COURSE DESCRIPTION**

How should human rights obligations be conceptualized, institutionalized and enforced? What are the bounds of global justice? What role does and what role should international

law play in securing human rights and justice? How do international law and domestic law interact in the context of human rights?

In this course, we will consider these sorts of questions by examining the extent to which there has been a shift away from the traditional statist paradigm of international law and human rights toward a more cosmopolitan conception of morality, human rights and law. We will ask whether any shift that may be discernible is desirable in terms of enhancing global justice and the protection of human rights. We will do so by considering some key historical, political and legal developments: (1) In the post World War II era; (2) Under conditions of contemporary globalization, in general, and more particularly after the end of the Cold War; and (3) Post 9/11. Focusing on the latter, we will pose the following questions: What is happening to human rights commitments in light of the ‘war on terror’? What forms of legal justice are possible under conditions of American empire and global inequality? What role might human rights and law and legality play in securing human rights and protecting them against abuse and instrumentalization by powerful states, if any?

An important dimension of the course will be our attempt to situate current controversies, challenges and conflicts in the emergence and consolidation of moral, political and legal responses to crimes against humanity, war crimes and genocide following World War II. To this end, we will read Hannah Arendt’s important book, *Eichmann in Jerusalem*, and consider some aspects of the Nuremberg Trials. Both of these raise a more general question that will pervade our considerations: How should we think about, and what should we do about, law under conditions of domination, exploitation, and imperialism if our aim is to develop human rights and work toward global justice, social and otherwise?

### **REQUIRED TEXTS**

Available at Octopus Books, 116 Third Avenue (just west of Bank Street in the Glebe. See <http://octopusbooks.org> for hours etc.):

1. Arendt, Hannah.1963. *Eichmann in Jerusalem: A Report on the Banality of Evil*. New York: Penguin.
2. LAWS2105 Coursepack (indicated with a “!” in the syllabus)

### **Please Note:**

**Please bring the required readings to lecture every week.**

Readings not in the required texts are available on the web. It is important that you know how to and can access journal articles through the MacOdrum Library website. If you anticipate any problems, please consult the library.

Adjustments may be made to the required readings during the term. If any are to be made, I will announce them in class and on-line.

Supplementary readings are listed by week. They are there for your information, for future research etc. They are idiosyncratic, not exhaustive, and I do not expect you to read supplementary material for 2105.

### **Supplementary Texts:**

Bartholomew, Amy (ed.). 2006. *Empire's Law: The American Imperial Project and the 'War to Remake the World'*. London: Pluto Press.

### **Cu Learn**

It is important that you have access to Carleton Connect and **use a connect email address**. Students are responsible for having access to CuLearn.

If there is an important notice regarding a class meeting, a reading, or some other important matter, I will try to post it to CuLearn at least the evening before the relevant class meeting.

### **EVALUATION**

**Analytical Essay**                      **40% Due Friday 24 October between 10 am and noon (see below)**

**Final Exam (2 hours)**              **60% Regular exam period (December 10-21)**

#### **Essay:**

The essay is due Friday October 24, 2014 between 10am and noon. You may hand it in to Professor Bartholomew or one of the TA's in Professor Bartholomew's office on that day between 10am and noon. This will ensure we have received your essay and you will know we have received it. Should you choose to deposit your essay in the Law Dept. Drop Box or submit it in any other manner, *you* assume the responsibility for it. If we do not find it there, we will assume you have not submitted it, or if we find it after the due date, we will assume it was submitted late.

The assignment is an analytical essay of 2000 words or less (under 8 double-spaced pages written in Times New Roman 12 point font) on Hannah Arendt's *Eichmann in Jerusalem*. More information will be provided later in the term. Please note the following:

- The **late penalty** for the assignment is **1 mark per day late** (e.g. 1 day late reduces an essay mark from A to A-). Any essay received after noon on October 24 will be treated as at least one day late. *Each weekend day will count as one day. The professor has final say over the submission date, not the Department of Law stamp.* Any exception to the deadline must be cleared through the professor or a TA before the due date. An extension will only be granted if a student has medical or other official documentation that I judge to be convincing or an otherwise compelling

reason. Late essays will also be marked last and returned after the essays that are submitted on time. Finally, late essays will receive less feedback than those submitted on time.

### **Final Exam:**

The final exam will be given during the regular examination period. It is a two hour exam. You will be permitted to bring 1 sheet of 8x11 inch paper into the exam with you, with notes permitted on both sides.

**Note on Class Participation:** Although no mark is assigned for class participation, lectures are designed to leave time for questions and the opportunity for students to discuss and debate course readings and topics. Consistently informed participation, reflecting regular, close reading of the assigned texts is expected. Consistently excellent participation may result in the course mark being increased by 1 mark (e.g. from B- to B).

### **GENERAL RULES:**

**Failure to complete any aspect of the requirements may result in failure in the course.**

**Plagiarism will not be tolerated. There is a zero tolerance policy on plagiarism which means that any act of plagiarism – whether intentional or inadvertent – will be taken directly to the Dean.**

The OED (Oxford English Dictionary) defines plagiarism as follows: “The action or practice of taking someone else's work, idea, etc., and passing it off as one's own; literary theft.”<sup>1</sup>

Plagiarism includes failing to use quotation marks around quoted material, even if one provides a citation, or providing an inadequate citation such as failing to provide a page number for quoted material.

In addition to the Carleton website information, see the useful guide at <http://www.writing.utoronto.ca/advice/using-sources/how-not-to-plagiarize>

**Standing** in a course is determined by the course instructor subject to the approval of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Dean."

Please note: The seminar schedule, readings and the precise tasks for seminar participation are subject to change.

### **COURSE SCHEDULE:**

#### **1. Sept 10 (Section A )/ Sept 11 (Section B ) Introduction and Administrivia**

#### **Required reading/viewing:**

<sup>1</sup> “Plagiarism, n,” *Oxford English Dictionary*. Third Edition, June 2006.

Please review the syllabus posted on CuLearn and bring a copy with you to class.

Please also watch “A Human Rights Crisis: In Unprecedented Move, Amnesty International Sends Monitors to Ferguson,” *Democracy Now* 18 August 2014 (about 5 minutes long). Available at:  
[http://www.democracynow.org/2014/8/18/a\\_human\\_rights\\_crisis\\_in\\_unprecedented?auto\\_start=true&get\\_clicky\\_key=suggested\\_most\\_popular\\_story](http://www.democracynow.org/2014/8/18/a_human_rights_crisis_in_unprecedented?auto_start=true&get_clicky_key=suggested_most_popular_story)

## **2. Sept 17 (Section A ) / Sept 18 (Section B)      Human Rights: An Introduction**

### **Required reading:**

Hunt, Lynn. 2007. *Inventing Human Rights*. New York: WW Norton, 2007. Read “Introduction,” 1-15. (Available on Googlebooks. Book also on reserve).

Falk, Richard. 2009. *Achieving Human Rights*. “Introduction” (pp. 1-9) Available as an eBook from MacOdrum. One can download these pages.

Hirsh, David. 2003. *Law Against Genocide: Cosmopolitan Trials*. London: Cavendish/Glasshouse Press, pp. 1-20. Available as electronic source on MacOdrum website. One can download these pages.

Nickel, James W. 2006: “Are Human Rights Mainly Implemented by Intervention?” in *Rawls’s Law of Peoples: A Realistic Utopia?* Rex Martin and David A. Reidy, eds. (Malden, MA: Blackwell), 263-277. JUST READ p.207. Available as an eBook from MacOdrum (4 persons at a time).

Koh, Harold Hongju. “How Is International Human Rights Law Enforced?” *Indiana Law Journal* 74 (1999): 1397-417; JUST READ 1397-1399, and 1408-1411. Available on MacOdrum.

Merry, Sally Engle. 2003. “Constructing a Global Law: Violence against Women and the Human Rights System.” *Law and Social Inquiry* 28, no. 4: 941-977; JUST READ 941-946. Available on MacOdrum.

Skim over the Universal Declaration of Human Rights. Available online.

### **Supplementary:**

Neve Gordon and Nitzia Berkovitch, “Human Rights Discourse in Domestic Settings: How Does it Emerge?” *Political Studies*, 55, (2007): 243-266.

Risse, Thomas. 1999. “International Norms and Domestic Change: Arguing and Communicative Behavior in the Human Rights Arena.” *Politics and Society* 27, no. 4 (1999): 529-559.

Hunt, Lynn. “Inventing Human Rights.” 7 March 2008 Lecture.

<https://www.youtube.com/watch?v=YZVD1G4q0bA>

Gardbaum, Stephen. 2008. "Human Rights as International Constitutional Rights." *European Journal of International Law* 19, no. 4: 749-768. Just read 764-768 (up to "Conclusion").

Nickel, James W. "Human Rights." *Stanford Encyclopedia of Philosophy*.  
<http://plato.stanford.edu/entries/rights-human/>

Geras, Norman. *The Contract of Mutual Indifference*. London: Verso, 1998.

### **3. Sept 25/26 Human Rights, Globalization and Post September 11: Focusing on "Global War on Terror," Torture and "The Manhunt Doctrine"**

Film: "Ghosts of Abu Ghraib" and section 3 of "Blueprint for Accountability" may be shown in class.

#### **Required reading:**

Annas, George. "Human Rights Outlaws: Nuremberg, Geneva, and the Global War on Terror." *Boston University Law Review* 87 (2007): 427-466. JUST READ 427-445 (we will read the rest later). Available through MacOdrum.

Chamayou, Grégoire. 2011 "The Manhunt Doctrine," *Radical Philosophy* 169 (Sept/Oct). To access, enter MacOdrum website, type "Radical Philosophy" into the Journal title, click on "online access," this takes you to Radical Philosophy. Then, in the search box, type in Chamayou. Or, go to: <http://www.radicalphilosophy.com/commentary/the-manhunt-doctrine>

Willis, Susan. "Guantanamo's Symbolic Economy." *New Left Review* 39, no. May-June (2006): 123-131. Available through MacOdrum.

European Court of Human Rights, Press Release. 24 July 2014. "Secret Rendition and Detention by the CIA in Poland of Two Men Suspected of Terrorist Acts."

<http://www.strasbourgconsortium.org/common/document.view.php?docId=6599>

Lewis, Paul. 1 August 2014. "Obama Admits CIA 'Tortured some Folks' but Stands by Brennan Over Spying" *The Guardian*

<http://www.theguardian.com/world/2014/aug/01/obama-cia-torture-some-folks-brennan-spying>

Shane, Scott. 19 April 2009. "Waterboarding Used 266 Times on Two Suspects."

[http://www.nytimes.com/2009/04/20/world/20detain.html?\\_r=0](http://www.nytimes.com/2009/04/20/world/20detain.html?_r=0)

Timm, Trevor. 7 August 2014. "The CIA is Getting Away with Keeping Every Important Secret about Torture." *The Guardian*.

<http://www.theguardian.com/commentisfree/2014/aug/07/cia-secret-torture-senate-report>

#### **Supplementary:**

\*Bromwich, David. 3 July 2014. "The World's Most Important Spectator." (On Obama) *London Review of Books* 36, no. 13: 3-6.

- \*Johnsen, Gregory D. 16 January 2014. "60 Words and a War Without End: The Untold Story of the Most Dangerous Sentence in U.S. History," *BuzzFeed News*. Also listen to the NPR Radiolab program on this story.
- \*Harwood, Matthew. 14 August 2014. "To Terrify and Occupy: How the Excessive Militarization of the Police is Turning Cops Into Counterinsurgents," TomDispatch.com
- \*Peirce, Gareth. 2010. *Dispatches from the Dark Side*. New York and London: Verso.
- \*Peirce, Gareth. 2008. "On the Treatment of Muslims in Britain." *London Review of Books* 30(7): 3. [http://www.lrb.co.uk/v30/n07/peir01\\_.html](http://www.lrb.co.uk/v30/n07/peir01_.html)
- \*Waldron, Jeremy. 2005. "Torture and Positive Law: Jurisprudence for the White House," *Columbia Law Review* 105: 1681- 1750, just read "Introduction", 1681-1688; "The Bybee Memo", 1703-1714; "An Archetype of International Law" and "Conclusion" 1741 -1750. Online
- Gordon, Neve. 2014. "Human Rights as a Security Threat: Lawfare and the Campaign Against Human Rights NGO's," *Law and Society Review* 48, no. 2 (2014): 311-344.

#### 4.Oct.1/2 Nuremberg and its Legacy

##### **Required reading:**

Hirsh, David. 2003. *Law Against Genocide: Cosmopolitan Trials*, pp. 38-49. Available as ebook on MacOdrum website

!Falk, Richard A., Gabriel Kolko and Robert Jay Lifton eds. 1971. *Crimes of War: A Legal, Political-Documentary, and Psychological inquiry into the responsibility of leaders, citizens, and soldiers for Criminal Acts in Wars*. New York: Random House. pp. 76-109. C/RSV

!Kirchheimer, Otto. 1961. "Trial by Fiat of the Successor Regime" Pp: 323-341 in *Political Justice: The Use of Legal Procedure for Political Ends*. Princeton: Princeton University Press. C/ RSV

!Zolo, Danilo. 2009. *Victors' Justice: From Nuremberg to Baghdad*. London: Verso, 138-147; and 165-166. C

Fine, Robert. (2010). "Dehumanizing the Dehumanizers: Reversal in Human Rights Discourse." *Journal of Global Ethics* 6, no. 2: 179-190; just read 179-181.online

Bass, Gary Jonathan. 2000. "Nuremberg." Pp. 147-205 in *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals*. Princeton, NJ: Princeton University Press. JUST READ p. 175 for Stimson's Memo. This can be found on Google Books. <http://books.google.com/books>

[To find, google "Stimson's memo crimes against humanity"]



Supplementary:

Bass, Gary Jonathan. 2000. "Nuremberg." Pp. 147-205 in *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals*. Princeton, NJ: Princeton University Press. C/RSV

Fine, Robert. "Crimes against Humanity: Hannah Arendt and the Nuremberg Debates." *European Journal of Social Theory* 3, no. 3 (2000): 293-311.

Supplementary classics:

Hart, HLA. 1957. "Positivism and the Separation of Laws and Morals." *Harvard Law Review* 71, 593.

Fuller, Lon L. 1957 "positivism and Fidelity to Law – A Reply to Professor Hart." *Harvard Law Review* 71, 630.

Short, useful recap of those classics:

Rehaag, Sean. "Review of The Hart-Fuller Debate in the Twenty-First Century," ed. by Peter Crane, *Osgood Hall Law Review*.

**5. Oct 8/9 After Nuremberg: *Eichmann in Jerusalem***

Film: "The Specialist: Portrait of a Modern Criminal" (1999) – will be screened in class with discussion to follow.

**Required reading:**

!Müller, Ingo. 1991. *Hitler's Justice: The Courts of the Third Reich*. Cambridge, MA: Harvard University Press, 58, and 68-81.

Jaspers, Karl. 2006. "Who Should have Tried Eichmann?" *Journal of International Criminal Justice* 4: 853-858. (Originally, 1962).

Arendt, Hannah. 1963. *Eichmann in Jerusalem: A Report on the Banality of Evil*, New York: Penguin. RSV **You are responsible for reading the entire book, but concentrate on pp. 3-150; 206-298.**

Supplementary: Also see the following week

Burchard, Christoph. "The Nuremberg Trial and Its Impact on Germany." *Journal of International Criminal Law* 4 (2006): 800-829.

Hart, H.L.A. "Positivism and the Separation of Law and Morals," *Harvard Law Review* 71 (1958), 593-629.

Fuller, Lon L. "Positivism and Fidelity to Law - a Reply to Professor Hart." *Harvard Law Review* 71 (1958): 630-672.

Haldemann, Frank. "Gustav Radbruch Vs. Hans Kelsen: A Debate on Nazi Law." *Ratio Juris* 18, no. 2 (2005): 162-78.

Kirchheimer, Otto. "The Legal Order of National Socialism." *Studies in Philosophy and Social Science* 8 (1940).

Lustgarten, Laurence. "Taking Nazi Law Seriously." *Modern Law Review* 63, no. 1 (2000): 128.

Muller, Ingo. *Hitler's Justice: The Courts of Hte Third Reich*. Cambridge, MA: Harvard University Press, 1991.  
Rundle, Kristen. "Review of Law after Auschwitz: Towards a Jurisprudence of the Holocaust by David Fraser (2005)." *Sydney Law Review* 28 (2006): 197-203.  
Scheuerman, Bill. "Neumann V. Habermas: The Frankfurt School and the Case of the Rule of Law." *Praxis International* 13, no. 1 (1993): 50-67.

## 6. Oct 15/16            After Nuremberg: Arendt's Analysis

### **Required reading:**

Arendt, Hannah. 1963. *Eichmann in Jerusalem: A Report on the Banality of Evil*, New York: Penguin. Continued.

!Marrus, Michael R. 2001. "Eichmann in Jerusalem: Justice and History," in Steven L. Aschheim, ed. *Hannah Arendt in Jerusalem* (Berkeley: University of California Press), 205-213.

*Convention on the Prevention and Punishment of the Crime of Genocide* 1948. Available at: <http://www.preventgenocide.org/law/convention/text.htm>

### **Supplementary:**

Fine, Robert. 2000. "Crimes Against Humanity: Hannah Arendt and the Nuremberg Debates." *European*

Benhabib, Seyla. "International Law and Human Plurality in the Shadow of Totalitarianism: Hannah Arendt and Raphael Lemkin." *Constellations* 16, no. 2 (2009): 331-50.

Hirsh, David. 2003. *Law Against Genocide: Cosmopolitan Trials* 23-24, 27-31, 33-35.

Osiel, Mark. 1999. *Obedying Orders: Atrocity, Military Discipline and the Law of War*. New Brunswick, NJ: Transaction Publishers, esp. pp. 145-151.

Osiel, Mark J. 2000. "Why Prosecute? Critics of Punishment for Mass Atrocity." *Human Rights Quarterly* 22:118-147.

Butler, Judith. 2009. "Hannah Arendt, Ethics and Responsibility." Lecture series on Youtube.

Bernstein, Richard J. 2002. *Radical Evil: A Philosophical Interrogation*. Cambridge, UK: Polity.

## 7. Oct. 22/23            The Nuremberg Effect: Cosmopolitan Law, Universal Jurisdiction, and Transnational Law

### **Required reading:**

Eleftheriadis, Pavlos. 2003. "Cosmopolitan Law," *European Law Journal*, 9, no. 2 (April): 241-263; just read 241-246; 249-257; and 260-263. Online

Rome Statute [http://www.icc-cpi.int/nr/rdonlyres/ea9aef7-5752-4f84-be94-0a655eb30e16/0/rome\\_statute\\_english.pdf](http://www.icc-cpi.int/nr/rdonlyres/ea9aef7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf) Read Preamble and Articles 5-9, 77. More if possible.

Glance at:

[http://www.icc-cpi.int/en\\_menus/icc/situations%20and%20cases/cases/Pages/cases%20index.aspx](http://www.icc-cpi.int/en_menus/icc/situations%20and%20cases/cases/Pages/cases%20index.aspx)

Wilke, Christiane. 2005. "A Particular Universality: Universal Jurisdiction for Crimes Against Humanity in Domestic Courts." *Constellations* 12, no. 1: 83-102. Online

**Required reading for class discussion:**

Center for Constitutional Rights. "Universal Jurisdiction: The Case Against Rumsfeld and Accountability for U.S. Torture." <http://ccrjustice.org/case-against-rumsfeld>  
Read summary, listen to interview with Wolfgang Kalek, and read the overview of the Spanish litigation at: <http://ccrjustice.org/spain-us-torture-case>

Horton, Scott. 21 November 2011. "The Justice Cascade: Six Questions for Kathryn Sikkink," Harpers Blog  
<http://harpers.org/blog/2011/11/the-justice-cascade-six-questions-for-kathryn-sikkink/>

Supplementary:

Gordon, Neve. "Human Rights as a Security Threat: Lawfare and the Campaign against Human Rights Ngo's." *Law and Society Review* 48, no. 2 (2014): 311-344.

Human Rights Watch. 2011 (11 July). "United States: Investigate Bush, Other Top Officials for Torture." <http://www.hrw.org/news/2011/07/11/united-states-investigate-bush-other-top-officials-torture>

Henry Kissinger, "The Pitfalls of Universal Jurisdiction: Risking Judicial Tyranny," <http://www.globalpolicy.org/intljustice/general/2001/07kiss.htm>

Gardbaum "Human Rights as Constitutional Rights," esp. 759.

**ESSAYS ARE DUE FOR BOTH SECTIONS FRIDAY 24 OCTOBER 10AM to NOON.**

You may hand your essay in to Professor Bartholomew or one of the TA's in Professor Bartholomew's office between 10am and noon. This will ensure we have received your essay and you will know we have received it. Should you choose to deposit your essay in the Law Dept. Drop Box or submit it in any other manner, you assume the responsibility for it. If you claim you deposited it but it is not there, you will be subject to late penalties until you get it to one of us.

**FALL BREAK            October 29/30**

**8.Nov.5/6                Statelessness, Rightlessness, and the "Right to have Rights"**

**Required reading:**

Arendt, Hannah. 1966. "The Decline of the Nation-State and the End of the Rights of Man," in *The Origins of Totalitarianism* 267-302 (read 290-302 most closely), and intro p. ix . San Diego/New York: Harvest/Harcourt. C/RSV

Benhabib, Seyla. 2004. "The Right to Have Rights: Hannah Arendt on the Contradictions of the Nation-State," in *The Rights of Others: Aliens, Residents and Citizens*. Cambridge: Cambridge University Press. 49-69. [electronic book, Macodrum]

Supplementary:

Somers, Margaret R. "Citizenship, Statelessness and Market Fundamentalism: Arendtian Right to Have Rights." In *Migration, Citizenship, Ethnos*, edited by Y. Michael Bodemann and Gokce Yurdakul, 35-62: Palgrave MacMillan, 2006.

Bernstein, Richard J. 2005. "Hannah Arendt on the Stateless." *Parallax* 11:46-60.

Parekh, Serena. (2004). "A Meaningful Place in the World: Hannah Arendt on the Nature of Human Rights." *Journal of Human Rights* 3(1): 41-53.

**9. Nov. 12/13                      Citizenship, Human Rights and Contemporary Statelessness?**

**Required reading:**

Oriola, Temitope. 2009. "Counter-Terrorism and Alien Justice: The Case of Security Certificates in Canada." *Critical Studies on Terrorism* 2: 257-274.

Bradley, Megan. 2014. "Rethinking Refugeehood: Statelessness, Repatriation, and Refugee Agency," *Review of International Studies*, 40, no. 1: 101-123.

Justice for Deepan Speaks in Toronto about Crimmigration

<https://www.youtube.com/watch?v=DS2xY8-Dtsg>

Macklin, Audrey "the Securitization of Dual Citizenship" ???

Gyulai, Gábor. 2013. "Protecting Stateless Palestinian Refugees – The EU Court of Justice Opens a New Chapter." <http://www.statelessness.eu/blog/protecting-stateless-palestinian-refugees-%E2%80%93-eu-court-justice-opens-new-chapter>

Supplementary:

Anna Pratt, ed.. 2006. *Securing Borders: Detention and Deportation in Canada*, Vancouver: UBC Press, pp.1-52.

Macklin, Audrey. "Who Is the Citizen's Other? Considering the Heft of Citizenship." *Theoretical Inquiries in Law* 8, Number 2, no. 2 (2007): 333.

**10. Nov. 19/20                      Guantanamo and Torture**

Annas, George. "Human Rights Outlaws: Nuremberg, Geneva, and the Global War on Terror." *Boston University Law Review* 87 (2007): 427-466, read 445-447, and 458-end

(we read the first part earlier).

Waldron, Jeremy. 2005. "Torture and Positive Law: Jurisprudence for the White House. *Columbia Law Review*" 105: 1681- 1750, just read "Introduction", 1681-1688; "The Bybee Memo", 1703-1714; "An Archetype of International Law" and "Conclusion" 1741-1750. Online

Frakt, David J.R. "Direct Participation in Hostilities as a War Crime: America's Failed Efforts to Change the Laws of War." *Valparaiso University Law Review* 46 (2013): 729-764.

Glazier, David W. "Still a Bad Idea: Military Commissions under the Obama Administration." *Loyola Law School*, no. Legal Studies Paper No. 2010-32. Just read 1-5, 31, and 68-76. [note: "Before attending law school, Glazier served 21 years as a US Navy surface warfare officer".  
<http://www.lls.edu/aboutus/facultyadministration/faculty/facultyliste-g/glazierdavid/> ]

Samir Naji al Hasan Moqbel, "Gitmo Is Killing Me" 14 April 2013 *New York Times*, [http://www.nytimes.com/2013/04/15/opinion/hunger-striking-at-guantanamo-bay.html?\\_r=0](http://www.nytimes.com/2013/04/15/opinion/hunger-striking-at-guantanamo-bay.html?_r=0)

Willis, Susan. "Guantanamo's Symbolic Economy." *New Left Review* 39, no. May-June (2006): 123. Reread.

Supplementary:

Glazier, David. "A Self-Inflicted Wound: A Half Dozen Years of Turmoil over the Guantanamo Military Commissions." *Lewis and Clark Law Review* 12 (2008): 147-85.

Aradau, Claudia. "Law Transformed: Guantanamo and the 'Other' Exception." *Third World Quarterly* 28, no. 3 (2006): 489-501.

Cole, David. "Guantanamo: Ten Years and Counting." *The Nation* (2012).

**11. Nov. 26/27      The "Global War on Terrorism": Challenges to Human Rights' Legality**

**Required Reading:**

Waldron, Jeremy. 2005. "Torture and Positive Law: Jurisprudence for the White House. *Columbia Law Review*" 105: 1681- 1750, just read "Introduction", 1681-1688; "The Bybee Memo", 1703-1714; "An Archetype of International Law" and "Conclusion" 1743-1750.

!Bartholomew, Amy. "Defending Legality in the Age of Empire's Law," in *Legality and Legitimacy in Global Affairs*. Richard Falk, Mark Juergensmeyer, and Vesselin Popovski eds., 92-126. Oxford: Oxford University Press. C

Brooks, Rosa.2014. "Drones and the International Rule of Law," *Ethics and International Affairs* 28, no. 1: 83-103.

Re-read: Chamayou, Grégoire. 2011 "The Manhunt Doctrine," *Radical Philosophy* 169 (Sept/Oct). To access, enter Macodrum website, type in Radical Philosophy into the Journal title, click on "online access," this takes you to Radical Philosophy. Then, in the search box, type in Chamayou. Or, go to:

<http://www.radicalphilosophy.com/commentary/the-manhunt-doctrine>

Supplementary reading:

Fiss, Owen M. 2013. "Imprisonment without Trial." *Faculty Scholarship Series* Paper 4799. (skim for threats to 'the principle of freedom')

See readings listed under weeks 2 and 3.

Sanders, Rebecca. (2011). "Implausible Legality " *International Journal of Human Rights* 15, no. 4: 605-626.

Peirce, Gareth. 2010. *Dispatches from the Dark Side: On Torture and the Death of Justice*. (London: Verso). See, especially, ch. 3, "Was it like this for the Irish?"

Balasubramaniam, Rueban R. 2008. "Indefinite Detention: Rule By Law or Rule of Law?" In *Emergencies and the Limits of Legality* ed. VV Ramraj. Cambridge: Cambridge University Press.

**12. Dec. 3/4 Denying and asserting human rights accountability today: The role of intellectuals and social movements**

Film: Michael Walzer's Dewey Lecture will be shown in class. You can also read his lecture at: Walzer, Michael. 2010 (21 May). "Trying Political Leaders: Why George W. Bush is not like Louis XVI" *The New Republic*. (available on MacOdrum website)

**Required Reading:**

Greenwald, Glenn. 31 August 2012. "Obama's Justice Department Grants Final Immunity to Bush's CIA Torturers,"

<http://www.theguardian.com/commentisfree/2012/aug/31/obama-justice-department-immunity-bush-cia-torturer>

Sartre, Jean Paul on Bertrand Russell Tribunal

<http://web.archive.org/web/20041025164511/www.911review.org/Wget/www.homeusers.prestel.co.uk/littleton/v1101sar.htm>

[If this address doesn't work, google "Jean-Paul Sartre Inaugural Statement Bertrand Russell War Crimes Tribunal"]

Supplementary:

\*Bromwich, David. 3 July 2014. "The World's Most Important Spectator." (On Obama) *London Review of Books* 36, no. 13: 3-6.

## **Other Sources:**

**News/Websites I turn to for these sorts of subjects:**

### **Websites, Blogs etc.:**

The Real News      [www.therealnews.com](http://www.therealnews.com)      (Canadian produced, international scope)

Democracy Now      [www.democracynow.org](http://www.democracynow.org)

Center for Constitutional Rights <http://ccrjustice.org> (New York-based; US Arar cases, extraordinary rendition, Guantanamo, torture cases etc.)

Slate      Slate.com (see, esp. Dahlia Lithwick essays)

Salon      Salon.com (see esp. Glenn Greenwald essays)

Cageprisoners      [www.cageprisoners.com](http://www.cageprisoners.com)

ALJAZEERA <http://english.aljazeera.net> (news)  
See “Empire” series etc.

Prism Magazine online (founded and edited by Maher Arar) <http://prism-magazine.com/>  
(You can sign up for weekly email updates on matters concerning civil liberties, the Canadian security state etc.)

Lawfare (blog)

The Nation

Zmagazine

### **Print Media (often with websites)**

#### Daily Newspapers:

Globe and Mail

Toronto Star

New York Times

Washington Post (very good on Guantanamo, US Supreme Court etc.)

Miami Herald

Los Angeles Times

The Guardian (see esp. Glenn Greenwald:

<http://www.guardian.co.uk/commentisfree/series/glenn-greenwald-security-liberty>

### **Others, both print and websites:**

Znet

The New Yorker (watch for essays by Jane Mayer and Seymour Hirsch)

Counterpunch

Walrus

Ad Busters

Canadian Dimension

Harpers  
Le Monde Diplomatique (in English as well as French)  
The Nation  
Foreign Policy in Focus  
Middle East Report (watch for Lisa Hajjar, Richard Falk)  
The New York Review of Books  
London Review of Books  
Cageprisoners (online)  
ACLU  
Amnesty International  
Human Rights Watch  
Council of Canadians  
Open Democracy  
The Hindu

**Scholarly Journals:**

\*Ethics and International Affairs  
\*European Journal of International Law  
\*Constellations  
\*Indiana Journal of Global Legal Studies  
\*Journal of Human Rights  
\*International Journal of Human Rights  
\*Leiden Journal of International Law  
\*Human Rights Quarterly  
\*Human Rights Review  
\*Millennium  
\*Alternatives  
\*Muslim World Journal of Human Rights  
\*New Left Review  
\*Peace Review  
\*Contemporary Political Theory  
\*German Law Journal  
\*South Atlantic Quarterly

Columbia Journal of Transnational Law  
Harvard Human Rights Journal  
Citizenship Studies  
Journal of Political Philosophy  
Review of the International Red Cross  
Wisconsin Law Review  
Ethics  
Cambridge Review of International Affairs  
International Journal of Constitutional Law  
Journal of International Criminal Justice  
Journal of Global Ethics  
Ratio Juris  
European Journal of Philosophy  
European Journal of Social Theory



Political Theory  
Philosophy and Public Affairs  
Philosophy and Social Criticism  
Vanderbilt Journal of Transnational Law  
Buffalo Human Rights Law Review  
Journal of Social Philosophy  
Netherlands International Law Review  
Political Studies  
Modern Law Review

## **MORE Supplementary Readings by Week**

### **2. Human Rights: An Introduction**

Fine, Robert. "Cosmopolitanism and Human Rights: Radicalism in a Global Age." *Metaphilosophy* 40, no. 1 (2009): 8-23.

Nickel, James W. 2002. "Is Today's International Human Rights System a Global Governance Regime?" *The Journal of Ethics* 6:353-371.

Benhabib, Seyla. 2006. *Another Cosmopolitanism*. Oxford, Oxford University Press, Esp chapter entitled "The Philosophical Foundation of International Norms," pp. 13-31.

Twiss, Sumner B. "History, Human Rights, and Globalization." *Journal of Religious Ethics* 32, no. 1 (2004): 39-70.

Koh, Harold Hongju. "Why Transnational Law Matters." *Faculty Scholarship Series, Paper 1793* (2006): 745-753, just read 745-middle of page 750.  
[http://digitalcommons.law.yale.edu/fss\\_papers/1793/](http://digitalcommons.law.yale.edu/fss_papers/1793/)

Donnelly, Jack. 1998. "The Social Construction of Human Rights." Pp. 71-102 in *Human Rights in Global Politics*, edited by Tim Dunn and Nicholas Wheeler. Cambridge: Cambridge University Press.

Neuman, Gerald L. (2003). "Human Rights and Constitutional Rights: Harmony and Dissonance." *Stanford Law Review* 55: 1863.

Klug, Heinz. 2005. "Transnational Human Rights: Exploring the Persistence and Globalization of Human Rights." *Annual Review of Law and Social Science* 1: 85-103.

### **3. Human Rights, Globalization and Post September 11: Focusing on "Global War on Terror," Torture and "The Manhunt Doctrine"**

Physicians for Human Rights. 2008. *Broken Laws, Broken Lives: Medical Evidence of Torture by U.S. Personnel and Its Impact*. Please read the Preface by Major General Antonio Taguba, USA (Ret.) and the Executive Summary.

[http://brokenlives.info/?page\\_id=23](http://brokenlives.info/?page_id=23)

National Public Radio. Radiolab. "Radiolab on the History and Problems of the AUMF" available on: <http://www.lawfareblog.com/2014/04/radiolab-on-the-history-and-problems-of-the-aumf/>

Falk, Ch. 9, "A Descending Spiral," (pp. 129-143).

Human Rights Watch. 2011 (11 July). "United States: Investigate Bush, Other Top Officials for Torture." <http://www.hrw.org/news/2011/07/11/united-states-investigate-bush-other-top-officials-torture>

Dworkin, Ronald. 2006 (24 May). "It is Absurd to Calculate Human Rights According to Analysis." *The Guardian*.  
<http://www.guardian.co.uk/commentisfree/2006/may/24/comment.politics>

The Editors. 2011 (10 March). "Obama's 'War on Terror'." *The Nation*.  
<http://www.thenation.com/print/article/159168/obamas-war-terror>

Paust, Jordan J. 2008-2009. The Absolute Prohibition of Torture and Necessary and Appropriate Sanctions. *Val. University Law Review* 43:1535. Excellent, crisp analysis of the law.

Jones, Nate. 2012. Document Friday: The Torture Memos, We Know Now. (April 6)  
<http://nsarchive.wordpress.com/2012/04/06/document-friday-the-torture-memos-we-know-know/>

Cohen, Andrew. 2012. "The Torture Memos, Ten Years Later," *The Atlantic* (February 6) <http://www.theatlantic.com/national/archive/2012/02/the-torture-memos-10-years-later/252439/>

For 'fun': Matt Taibbi, "Coming Soon: The Indefinite Detention of American Citizens," *Rolling Stone* 10 December 2011. Available at:  
<http://www.readersupportednews.org/opinion2/275-42/8828-coming-soon-the-indefinite-detention-of-american-citizens>

Lazreg, Marnia (2008). *Torture and The Twilight of Empire*. Princeton, Princeton University Press.

Greenberg, Karen, ed. *The Torture Papers: The Road to Abu Ghraib*

Cole, David. 2009. *The Torture Memos: Rationalizing the Unthinkable*. New York: The New Press.

Junod, Tom. 2012. "The Lethal Presidency of Barak Obama," *Esquire* (August 18)  
<http://www.esquire.com/features/obamalethalpresidency0812>

See Democracy Now: "A Debate on Human Rights Watch's Call for Bush Administration Officials to be Tried for Torture" (July 12, 2011) [Roth v. Baker]

Democracy Now, "How Whitehouse Sanctioned Torture" Interview with Phillippe Sands. On Youtube May 8, 2008

Rovics, David. Song for Bradley Manning  
<http://www.youtube.com/user/pisquethethird#p/>

"War on Terror Through Muslim Eyes." 2010 (August 29). Aljazeera.  
<http://english.aljazeera.net/programmes/empire/2010/01/201012581059472955.html>

Cole, David. 2009 (December 2009). "Getting Away with Torture." *New York Review of Books*.

A Guide to the Memos on Torture, *New York Times*  
<http://www.nytimes.com/ref/international/24MEMO-GUIDE.html>

Lewis, A. (2004). "Making Torture Legal." *New York Review of Books* **LI**(12): 4.

Linebaugh, P. (2004). "Chapter 39, Order 39 Torture and Neo-Liberalism with Sycorax in Iraq." *Counterpunch* (November 27/28 2004):  
[www.counterpunch.org/linebaugh11272004.html](http://www.counterpunch.org/linebaugh11272004.html).

Luban, D. (2005). "Liberalism and the Unpleasant Question of Torture." *Virginia Law Review* **91**: 1425-1461.

- Macklin, A. (2008). "From Cooperation to Complicity, to Compensation: War on Terror, Extraordinary Rendition and Costs of Torture." European Journal of Migration and International Law **10**(1): 11-30.
- Mayer, J. (2005). "Outsourcing Torture." The New Yorker.
- Mayer, J. (2008). *The Dark Side: The Inside Story on How the War on Terror Turned into A War on American Ideals*. New York, Doubleday.
- McCoy, A. (2006). "Tomdispatch: Alfred McCoy on How Not to Ban Torture in Congress."
- Rona, G. (2008). "Legal Issues in the 'War on Terrorism' - Reflecting on the Conversation between Silja N.U. Voneky and John Bellinger." German Law Journal **9**(5): 711-735.
- Scheuerman, W. E. (2008). "Torture and the New Paradigm of Warfare." Constellations **15**(4): 561-575.
- Sussman, D. (2005). "What's Wrong with Torture?" Philosophy and Public Affairs **33**.
- Weiner, A. S. (2009). "The Torture Memos and Accountability." ASIL Insights **13**(6).
- Weissbrodt, D. and A. Bergquist (2006). "Extraordinary Rendition: A Human Rights Analysis." Harvard Human Rights Journal **9**: 123-160.
- Willis, S. (2006). "Guantanamo's Symbolic Economy." New Left Review **39**(May-June): 123.
- Dudziak, Mary L. 2012. *War Time: An Idea, Its History, Its Consequences* Oxford.
- Sands, Phillipe. 2008. "The Green Light." *Vanity Fair*. May 2008.  
<http://www.vanityfair.com/politics/features/2008/05/guantanamo200805?currentPage=1>
- Sands P. 2008. *The Torture Team: Rumsfeld's Memo and the Betrayal of American Values*.  
 New York: Palgrave MacMillan.
- Hajjar, Lisa. 2011 (July 05). "The Legal Campaign Against American Torture." Jadaliyya.
- Hersh, Seymour. 2004. "Rumsfeld's Dirty War on Terror". *The Guardian*
- Lewis, Anthony. 2004. "Making Torture Legal." *New York Review of Books* LI:4
- Schabas, William, A. 2005-2006. "The Crime of Torture and the International Criminal Tribunals." *Case W. Res. J. Int'l L.* 37: 349
- Mark Danner, "Into the light of Day: Torture, Human Rights and Bush's State of Exception" video available on youtube at:  
<http://www.youtube.com/watch?v=0gbMJUrWeMA&feature=channel>
- Weiner AS. 2009. The Torture Memos and Accountability. *ASIL Insights* 13
- Luban, David. 2005. "Liberalism and the Unpleasant Question of Torture". *Virginia Law Review* 91:1425-61
- Schabas, William A. 2007. "House of Lords Prohibits Use of Torture Evidence, but Fails to Condemn its Use by the Police." *International Criminal Law Review* 7:133-42
- Frankenberg, G. 2008. "Torture and Taboo: An Essay Comparing Paradigms of Organized Cruelty." *The American Journal of Comparative Law* 56:403-
- Mayer, Jane. 2008. *The Dark Side: The Inside Story on How the War on Terror Turned into A War on American Ideals*. New York: Doubleday
- CBC News, July 15, 2008. "You Don't Care About Me, Omar Khadr Sobs in Interview Tapes," <http://www.cbc.ca/canada/story/2008/07/15/khadr-tapes.html>
- Cole, David. 2006. "Are We Safer?" *New York Review of Books* 53:www.nybooks.com/articles/18752
- Evangelista, Matthew.

- Bartholomew, Amy. 2006. "Introduction." In *Empire's Law: The American Imperial Project and the 'War to Remake the World*, edited by Amy Bartholomew. London: Pluto Press. Pp. 1-17.
- Olshansky, Barbara. 2007. *Democracy Detained: Secret Unconstitutional Practices in the U.S. War on Terror*. New York, Seven Stories Press.
- Solis, Gary D. and Fred L. Borch. 2010. *Geneva Conventions*. New York: Kaplan.
- Sands, Philippe. 2006. *Lawless World: America and the Making and Breaking of Global Rules From FDR's Atlantic Charter to George W. Bush's Illegal War*. London: Penguin Books.
- Roth, Kenneth (Human Rights Watch). 2004. "The Law of War in the War on Terror." *Foreign Affairs* January/February 2004: [www.foreignaffairs.org](http://www.foreignaffairs.org).
- Duffy, Helen. 2005. *The 'War on Terror' and the Framework of International Law*. Cambridge, Cambridge University Press.
- Kaplan, Amy. 2005. "Where is Guantanamo?" *American Quarterly* 57(3): 831-858.
- Borelli, Silvia. 2005. "Casting Light on the Legal Black Hole: International Law and Detentions Abroad in the 'War on Terror'." *International Review of the Red Cross* 87: 39-68.
- Cole, David. 2006. "Are We Safer?" *New York Review of Books* 53(4): [www.nybooks.com/articles/18752](http://www.nybooks.com/articles/18752).
- Dubose, Lou. 2007. "Disappeared: Five Years in Guantanamo" *The Washington Spectator*, July 7, [www.alternet.org/story/55993](http://www.alternet.org/story/55993)
- Sands, Phillippe. 2008. *The Torture Team: Rumsfeld's Memo and the Betrayal of American Values*. New York, Palgrave MacMillan.
- Chinkin, Christine. 1998. "International Law and Human Rights." Pp. 105-129 in *Human Rights Fifty Years On: A Reappraisal*, edited by T. Evans. Manchester: Manchester University Press.

### **On Genocide:**

- Mamdani, Mahmood. "The Politics of Naming: Genocide, Civil War, Insurgency." *London Review of Books* 8 March (2007).
- Sartre, Jean-Paul. "Genocide." *New Left Review* 1/48, no. Mar-Apr (1968): 13-25.
- Benhabib, Seyla. "International Law and Human Plurality in the Shadow of Totalitarianism: Hannah Arendt and Raphael Lemkin." *Constellations* 16, no. 2 (2009): 331-50.
- Cole, Juan. 13 October 2013. "The American Genocide Against Iraq: 4% of Population Dead as result of US sanctions, wars" <http://www.juancole.com/2013/10/american-population-sanctions.html>
- Noack, Rick. 8 August 2014 "When Obama talks about Iraq, his use of the word 'genocide' is vital" *Washington Post* <http://www.washingtonpost.com/blogs/worldviews/wp/2014/08/08/when-obama-talks-about-iraq-his-use-of-the-word-genocide-is-vital/>
- May, Larry. "How Is Humanity Harmed by Genocide?" *International Legal Theory* 10, no. 1 (2004).
- Miller, Ruth A. "Genocidal Rights." *Studies in Law, Politics, and Society* 48 (2009): 147-75.

We will not focus on **Canada's role in the 'war on terror'** this year. Below are

some readings if you are interested :

- Sanders, Doug. 2007. "A World of Maher Arar's" *Globe and Mail* February 24.
- Davidson, Gail. 2010. "Torture as Foreign Policy: The Omar Khadr Decision." February 10.
- Byers, Michael and William Schabas. 2007. Letter to ICC "Re War Crimes and the Transfer of Detainees from Canadian Custody in Afghanistan."  
<http://ceasefireinsider.files.wordpress.com/2007/05/byers-schabas-letter-to-icc-25-april-2007.pdf>
- Poole, T. 2007. "Recent Developments in the 'War on Terrorism' in Canada." *Human Rights Law Review* 7:633-42
- Macklin, Audrey. 2008. "From Cooperation to Complicity, to Compensation: War on Terror, Extraordinary Rendition and Costs of Torture." *European Journal of Migration and International Law* 10:11-30
- Charkaoui v. Canada (Citizenship and Immigration) [2007] S.C.J. No. 9.
- Bell C. 2006. Subject to Exception: Security Certificates, National Security and Canada's Role in the 'War on Terror'. *Canadian Journal of Law and Society* 21:63-83
- Forcese C. 2007. The Obligation to Protect: The Legal Context for Diplomatic Protection of Canadians Abroad. *University of New Brunswick Law Journal* 57
- Weissbrodt, David and Amy Bergquist. 2006. "Extraordinary Rendition: A Human Rights Analysis." *Harvard Human Rights Journal* 9:123-160, exclude pp.138-141; 145-147. <http://www.law.harvard.edu/students/orgs/hrj/iss19/weissbrodt.pdf>
- Mayer, Jane, "Outsourcing Torture," *New Yorker* 14 February 2005.  
[http://www.newyorker.com/archive/2005/02/14/050214fa\\_fact6](http://www.newyorker.com/archive/2005/02/14/050214fa_fact6)
- Arar Commission Inquiry. <http://www.ararcommission.ca/eng/index.htm>
- ACLU, Extraordinary Rendition page <http://www.aclu.org/safefree/torture/rendition.html>

#### **4.Nuremberg and its Legacy**

- June 5, 2012 Democracy Now. Segment from "The Unheeded Message of the Holocaust" with an interview with Polish Resistance Jan Karsky, awarded Pres'l Medal of Freedom by Obama in May 2012.
- Fraser, David. *Law after Auschwitz : towards a jurisprudence of the Holocaust*
- Cardenas, Sonia. 2010. "The Geneva Conventions and the Normative Tenor of International Relations." Pp. 1-17 in *The Geneva Conventions Under Assault*, edited by Sarah Perrigo and Jim Whitman. London: Pluto Press.
- Muller, Ingo. 1991. *Hitler's Justice: The Courts of the Third Reich*. Cambridge: Harvard UP.
- Douglass, Lawrence. 2001. *The Memory of Judgment: Making Law and History in the Trials of the Holocaust*. New Haven: Yale UP.
- Taylor, Telford. 1992. *The Anatomy of the Nuremberg Trials*. New York: Alfred A. Knopf.

Neumann, Franz. *Behemoth: The Structure and Practice of National Socialism 1933-1944*. New York: Harper and Row, 1966 [1944] esp, 440-458 on nazi law

Zolo, Danilo. 2007. "Who Is Afraid of Punishing Aggressors?" *Journal of International Criminal Justice* 5(4): 799-807.

Tomuschat, Christian. 2006. "The Legacy of Nuremberg." *Journal of International Criminal Law* 4:830-

The Nuremberg Trials: The Justice Trial

<http://www.law.umkc.edu/faculty/projects/ftrials/nuremberg/Alstoetter.htm>

## **5.and 6. After Nuremberg: *Eichmann in Jerusalem***

Douglas, Lawrence. 2001. *The Memory of Judgment: Making Law and History in the Trials of the Holocaust*. New Haven: Yale.

Fraser, Nancy. 2004. "Hannah Arendt in the 21st Century." *Contemporary Political Theory* 3:253-261.

Kohler, Lotte and Hans Saner—. 1992. *Hannah Arendt Karl Jaspers Correspondence 1926-1969*. New York: Harcourt Brace Jovanovich.

May, Larry and Jerome Kohn. 1997. *Hannah Arendt: Twenty Years Later*. Cambridge, Ma.: The MIT Press.

Mertens, Thomas. 2005. "Memory, Politics and Law -- The Eichmann Trial: Hannah Arendt's View on the Jerusalem Court's Competence." *German Law Journal* 6:407-424.

Schaap, Andrew. 2001. "Guilty Subjects and Political Responsibility: Arendt, Jaspers and the Resonance of the 'German Question' in Politics of Reconciliation." *Political Studies* 49:749-766.

Cohen, Jean L. 1996. "Rights, Citizenship and the Modern Form of the Social: Dilemmas of Arendtian Republicanism." *Constellations* 3:164-189.

Benhabib, Seyla. 2004. *The Rights of Others: Aliens, Residents and Citizens*. Cambridge: Cambridge University Press.

## **7. The Nuremberg Effect: Cosmopolitan Law, Universal Jurisdiction, and Transnational Law Oct. 22/23**

"Human Rights Watch: Obama Broke Law Not Prosecuting Bush and Cheney"

[http://therealnews.com/t2/index.php?option=com\\_content&task=view&id=31&Itemid=74&jumival=7088](http://therealnews.com/t2/index.php?option=com_content&task=view&id=31&Itemid=74&jumival=7088) Listen on line.

Gallagher, Katherine. 2009. "Universal Jurisdiction in Practice: Efforts to Hold Donald Rumsfeld and other High Level United States Officials Accountable for Torture." *Journal of International Criminal Justice* 7, no. 5,

Lobe, Jim. "Give Rumsfeld the Pinochet Treatment, says US Amnesty Chief" Znet 27 May

2005 [www.zmag.org/content/showarticle.cfm?SectionID=1&ItemID=7948](http://www.zmag.org/content/showarticle.cfm?SectionID=1&ItemID=7948)

Jabareen, Hassan. "Note from the Field: Transnational Lawyering and Legal Resistance in National Courts: Palestinian Cases before the Israeli Supreme Court." *Yale Human Rights and Development Law Journal* 13 (2010): 239-280.

Fischer-Lescano, Andreas. 2005. "Torture in Abu Ghraib: The Complaint against Donald

Rumsfeld under the German Code of Crimes against International Law.” *German Law*

*Journal* 6:689-724

[Center for Constitutional Rights, “Background Brief on the Case Against Rumsfeld, Gonzales and Others Filed in Germany On November 14, 2006.](#)

[Center for Constitutional Rights, “Rumsfeld War Crimes Case in Germany Focus of United](#)

[Nations Special Rapporteur on Independence of Judges and Lawyers: Attorneys File Motion](#)

[for Reconsideration of Complaint with German Federal Prosecutor](#)

[http://www.ccrny.org/v2/print\\_page.asp?ObjID=ACMRxLuuyb&Content=1054](http://www.ccrny.org/v2/print_page.asp?ObjID=ACMRxLuuyb&Content=1054)

Roth, Ken, “The Case for Universal Jurisdiction,” *Foreign Affairs*

Steiner, Henry J. 2004. "Three Cheers for Universal Jurisdiction -- Or is it Only Two?"

*Theoretical Inquiries in Law* 5:199-236.

Amnesty International. 1999. “Universal Jurisdiction: 14 Principles on the Effective Exercise of Universal Jurisdiction.” (AI Index: IOR 53/01/99)

<http://web.amnesty.org/library/index/engIOR530011999>

Nash, Kate. 2007. "Pinochet: Cosmopolitanism and Intermestic Human Rights." *British Journal of Sociology* 58(3): 417.

European Center for Constitutional and Human Rights (ECCHR), Ed. (2008). *CIA 'Extraordinary Rendition'*

Benhabib, Seyla. 2006. *Another Cosmopolitanism*. Oxford, Oxford University Press, chapter entitled “The Philosophical Foundation of International Norms.”

## **8. Statelessness, Rightlessness, and the “Right to have Rights”**

Cohen, Jean L. "Rights, Citizenship and the Modern Form of the Social: Dilemmas of Arendtian Republicanism." *Constellations* 3, no. 2 (1996): 164-89.

Schaap, Andrew. "Enacting the Right to Have Rights: Rancierre's Critique of Hannah Arendt." *European Journal of Political Theory* 10, no. 1 (2011).

## **9. Citizenship, Human Rights and Contemporary Statelessness?**

Brouwer, Andrew. "Statelessness in Canadian Context: A Discussion Paper." [www.unhcr.org/protect/PROTECTION/40629ffc7.pdf](http://www.unhcr.org/protect/PROTECTION/40629ffc7.pdf) (2003).

Kerber, Linda K. "The Stateless as the Citizen's Other: A View from the United States." *The American Historical Review* 112, no. 1 (2007).

Macklin, Audrey. "Who Is the Citizen's Other? Considering the Heft of Citizenship." *Theoretical Inquiries in Law* 8, Number 2, no. 2 (2007): 333.

## **10. Guantanamo and Torture**

Gregory, Derek. "The Black Flag: Guantanamo Bay and the Space of Exception." *Geografiska Annaler, Series B: Human Geography* 88, no. 4 (2006): 405-27.

Hajjar, Lisa. "From Nuremberg to Guantanamo." *Middle East Report* 229, no. Winter (2003).

Macklin, Audrey. "From Cooperation to Complicity, to Compensation: War on Terror, Extraordinary Rendition and Costs of Torture." *European Journal of Migration and International Law* 10, no. 1 (2008): 11-30.

Honigsburg, Peter Jan. "Chasing 'Enemy Combatants' and Circumventing International

Law: A License for Sanctioned Abuse." *UCLA Journal of International Law and Foreign Affairs* 12, no. 1 (2007): 1-74.

Horton, Scott. "State of Exception." *Harper's* July (2007): 74-81.

Hussein, Nassar. "Beyond Norm and Exception: Guantanamo." *Critical Inquiry* 33 (2007): 4.

Kaplan, Amy. "Where Is Guantanamo?" *American Quarterly* 57, no. 3 (2005): 831-58.

Kurnaz, Murat. *Five Years of My Life: A Report from Guantanamo* (Working) forthcoming english translation 2008.

Londras, Fiona de. "Can Counter-Terrorism Internment Ever Be Legitimate?" *Human Rights Quarterly* (2011): 593-619.

———. "Guantanamo Bay: Toward Legality?" *The Modern Law Review* 71, no. 1 (2008): 36-58.

Mayer, Jane. *The Dark Side: The inside Story on How the War on Terror Turned into a War on American Ideals*. New York: Doubleday, 2008.

———. "The Trial." *The New Yorker*, 15 February 2010.

Neuman, Gerald L. "The Extraterritorial Constitution after Boumediene V. Bush." *Southern California Law Review* 82 (2009): 259-90.

Raustiala, Kal. "The Geography of Justice." *Fordham Law Review* 73 (2006): 101 - 06.

Resnik, Judith. "Bring Back Bentham: 'Open Courts', 'Terror Trials' and Public Spheres." *Law and Ethics of Human Rights* 5, no. 1 (2011): 4-69.

Sands, Philippe. "The Green Light." *Vanity Fair* (2008).

Scheuerman, William E. "Carl Schmitt and the Road to Abu Ghraib." *Constellations* 13, no. 1 (2006): 108-24.

Kafka, Franz. *The Trial*.

## 11. The "Global War on Terrorism": Challenges to Human Rights' Legality

Falk, Richard. 2009. *Achieving Human Rights*. Chapter 9 "A Descending Spiral" and chapter 10 "Encroaching on the Rule of Law."

Whitman, Jim. "Freeing Force from Legal Constraint," in *The Geneva Conventions Under*

*Assault*. Sarah Perrigo and Jim Whitman eds., 201-221. London: Pluto Press, 2010.

The Editors. 2011 (10 March). "Obama's 'War on Terror'." *The Nation*.

<http://www.thenation.com/print/article/159168/obamas-war-terror>

Cora Currier and Blair Hickman, "Obama's War on Terror" ProPublica rounds up the best watchdog journalism on the president's national security policies. On Slate at [http://www.slate.com/articles/news\\_and\\_politics/propublica/2012/06/is\\_obama\\_s\\_national\\_security\\_policy\\_any\\_different\\_from\\_bush\\_s\\_.html](http://www.slate.com/articles/news_and_politics/propublica/2012/06/is_obama_s_national_security_policy_any_different_from_bush_s_.html)

Denike, Margaret. 2008. "The Human Rights of Others: Sovereignty, Legitimacy and 'Just Causes' for the 'War on Terror'" *Hypatia* 23: 95-121.

Peirce, Gareth. 2008. "On the Treatment of Muslims in Britain." *London Review of Books* 30(7): 3.

European Center for Constitutional and Human Rights (ECCHR), Ed. (2008). CIA 'Extraordinary Rendition' Flights, Torture and Accountability - A European Approach. Berlin. See esp. Satterthwaite, Margaret, "Analysis of International and National Law."

Razack, Sherene. 2008. *Casting Out: The Eviction of Muslims From Western Law and Politics*. Toronto: University of Toronto Press.

Anghie, Antony. 2005. "The War on Terror and Iraq in Historical Perspective." *Osgoode Hall Law Journal* 43:35



- An-Na'im, Abdullah. 2002. "Upholding International Legality Against Islamic and American Jihad." In *Worlds in Collision: Terror and the Future of Global Order*, ed. K Booth, T Dunne, pp. 162-71. Houndsmills, Basingstoke, Hampshire: Palgrave Macmillan
- Baker, Peter. 2010. "Inside Obama's War on Terror." *New York Times*
- Barnett, C. 2009. "Violence and Publicity: Constructions of Political Responsibility After 9/11." *Critical review of international social and political philosophy* 12:353-75
- Borradori, Giovanna. ed. 2003. *Philosophy in a Time of Terror: Dialogues with Jürgen Habermas and Jacques Derrida*. Chicago: University of Chicago Press
- Bradley, CA. 2008. "Terror and the Law: The Limits of Judicial Reasoning in the Post-9/11 World" . *Foreign Affairs* 87: 132-7
- Byers, Michael. 2002. "Terror and the Future of International Law." In *Worlds in Collision: Terror and the Future of Global Order*, ed. K Booth, T Dunn, pp. 118-27. New York: Palgrave
- Daulatzai, S. 2007. Protect Ya Neck: Muslims and the Carceral Imagination in the Age of Guantanamo. *Souls* 9:132-47
- Duffy, Helen. 2005. *The 'War on Terror' and the Framework of International Law*. Cambridge: Cambridge University Press
- Evangelista, Matthew. 2008. *Law, Ethics and the War on Terror*. Cambridge: Polity
- Fine, Robert. 2009. Cosmopolitanism and Human Rights: Radicalism in a Global Age. *Metaphilosophy* 40:8-23
- Gregory, Derek. 2004. "Palestine and the 'War on Terror'." *Comparative Studies of South Asia, Africa and the Middle East* 24:182-95
- Gregory, Derek. 2006. "The Black Flag: Guantanamo Bay and the Space of Exception." *Geografiska Annaler, Series B: Human Geography* 88:405-27
- Hyde-Peirce A. 200. Realist Ethics and the War on Terror. *Globalizations* 6:23-40
- Jabri V. 2006. War, Security and the Liberal State. *Security Dialogue* 37:47-64
- Jayasuriya K. 2005. *Reconstituting the Global Liberal Order*. London: Routledge
- Jurists ICo. 2009. Assessing Damages, Urging Action
- Kaplan A. 2005. Where is Guantanamo? *American Quarterly* 57:831-58
- Klug H. 2003. The Rule of Law, War, or Terror. *Wisconsin Law Journal* 2003:365-84
- Lelyveld J. 2007. No Exit. *New York Review of Books* 54
- Londras Fd. 2008. Guantanamo Bay: Toward Legality? *The Modern Law Review* 71:36-58
- Martinez J. 2008. Process and Substance in the 'War on Terror'. *Columbia Law Review* 108:1013
- McCulluch J, Pickering S. 2009. Pre-Crime and Counter-Terrorism. *British Journal of Criminology* 49:628-45
- Megret F. 2002. 'War?' Legal Semantics and the Move to Violence. *European Journal of International Law* 13:361-99
- Moeckli D. 2005. The US Supreme Court's 'Enemy Combatant' Decisions: A 'Major Victory for the Rule of Law?' *Journal of Conflict and Security Law* 10:75-99
- Mokhtari S. 2006. Human Rights in the Post-September 11th Era: Between Hegemony and Emancipation. *Muslim World Journal of Human Rights* 3:1-15 (Article 1)
- Paust JJ. 2003. War and Enemy Status After 9/11: Attacks on the Laws of War. *Yale J. Int'l L.* 28:325-35
- Project HSR. 2008. Human Security Brief 2007 (Dying to Lose: Explaining the Decline in Global Terrorism), Simon Fraser University
- Ralph J. 2009. The Laws of War and the State of the American Exception. *Review of International Studies* 35:631-49

- Roach K, Trotter G. 2005. "Miscarriages of Justice in the War against Terror." *Pennsylvania State Law Review* 109:967-1041
- Roberts A. 2004. Righting Wrongs or Wronging Rights? The United States and Human Rights Post-September 11. *European Journal of International Law* 15:721-49
- Rona G. 2003. Interesting Times for International Humanitarian Law. *The Fletcher Forum of World Affairs* 27:55-74
- Rona G. 2007. An Appraisal of US Practice Relating to 'Enemy Combatants'. *Yearbook of International Humanitarian Law* 10:232-50
- Rona G. 2008. Legal Issues in the 'War on Terrorism' - Reflecting on the Conversation between Silja N.U. Voneky and John Bellinger. *German Law Journal* 9:711-35
- Sassoli M. 2004. Use and Abuse of the Laws of War In the 'War on Terrorism'. *Law and Inequality* 22:195-221
- Scheuerman WE. 2006. Carl Schmitt and the Road to Abu Ghraib. *Constellations* 13:108-24
- Scheuerman WE. 2008. Torture and the New Paradigm of Warfare. *Constellations* 15:561-75
- Smith N. 2006. Global Executioner. *South Atlantic Quarterly* 105:55-69
- Solis GD. 2010. *The Law of Armed Conflict*. Cambridge UK: Cambridge UP
- Stohl M. 2008. Old Myths, New Realities and the Enduring Realities of Terrorism. *Critical Studies on Terrorism* 1:5-16
- Tamanaha B. 2009, March 5. The Collapse of the 'Good Faith' Excuse for Yoo (Bybee, Delahunty). In *Balkanization*, ed. Balkanization, p. 7
- Weissbrodt D, Bergquist A. 2006. Extraordinary Rendition: A Human Rights Analysis. *Harvard Human Rights Journal* 9:123-60
- Young IM. 2003. "The Logic of Masculinist Protection: Reflections on the Current Security State". *Signs* 29:1-25
- Mayer, Jane. 2007. "The Black Sites: A rare look inside the CIA's secret interrogation program" *The New Yorker*. August 13.  
[http://www.newyorker.com/reporting/2007/08/13/070813fa\\_fact\\_mayer](http://www.newyorker.com/reporting/2007/08/13/070813fa_fact_mayer)
- Roth, Kenneth. 2004. "The Law of War in the War on Terror." *Foreign Affairs* January/February 2004:  
<http://www.foreignaffairs.org/20040101facomment83101/kenneth-roth/the-law-of-war-in-the-war-on-terror.html?mode=print>
- Fitzpatrick, Joan. 2003. "Speaking Law to Power: The War Against Terrorism and Human Rights." *European Journal of International Law* 14:241-264.
- Tisdall, Simon, Ewen MacAskill, and Richard Norton-Taylor. 2006. "America's Long War." in the *Guardian*, London. February 15.  
<http://www.guardian.co.uk/frontpage/story/0,,1710030,00.html>
- Borelli, Silvia. 2005. "Casting Light on the Legal Black Hole: International Law and Detentions Abroad in the 'War on Terror'." *International Review of the Red Cross* 87:39-68.
- Paust, Jordan J. 2003. "War and Enemy Status After 9/11: Attacks on the Laws of War." *Yale J. Int'l L.* 28:325.
- Paust, Jordan J. 2005. "Executive Plans and Authorizations to Violate International Law Concerning Treatment and Interrogation of Detainees." *Columbia Journal of Transnational Law* 43:811-863.
- An-Na'im, Abdullahi Ahmed. 2002. "Upholding International Legality Against Islamic and American Jihad." Pp. 162-171 in *Worlds in Collision: Terror and the*

*Future of Global Order*, edited by K. Booth and T. Dunne. Houndsmills, Basingstoke, Hampshire: Palgrave Macmillan  
Waldron, Jeremy. 2005. "Torture and Positive Law: Jurisprudence for the White House." *Columbia Law Review* 105:1681.  
Wilke, Christiane. 2005. "War v. Justice: Terrorism Cases, Enemy Combatants, and Political Justice in U.S. Courts." *Politics and Society* 33:637-669.  
Horton, Scott. 2007. "State of Exception." *Harper's* July: 74-81.  
Cole, David. 2006. "Are We Safer?" *New York Review of Books* 53:4.

[www.nybooks.com/articles/18752](http://www.nybooks.com/articles/18752).

Dudai, Ron. 2006. "Guantanamo Exported: 'Illegal Combatants' and the Israeli Supreme Court" *Jurist*. May 11.  
<http://jurist.law.pitt.edu/forumy/2006/05/guantanamo-exported-illegal-combatants.php>

Byers. Michael. In *Worlds in Collision*

## **12. Denying and asserting human rights accountability today: The role of intellectuals and social movements**

Watch "Blueprint for Accountability" at

[http://fora.tv/2010/06/07/Blueprint\\_for\\_Accountability](http://fora.tv/2010/06/07/Blueprint_for_Accountability) esp. 3, 4, 5, 9, 19, 20, 23, 25, more, if possible.

Falk, Richard, Irene Gendzier, and Robert Jay Lifton. 2006. *Crimes of War: Iraq*. New York: Nation Books.

Sokmen, Muge Gursoy, ed. 2008. *World Tribunal on Iraq: Making the Case Against War*. Northampton, MA: Olive Branch Press.

Bartholomew, Amy. 2008. "'Strategies of the Weak': Contesting Empire's Law through Litigation Under International Humanitarian Law," in Nils Andersson, Daniel Iagolnitzer, and Diana G. Collier, (eds.) *International Justice and Impunity: The Case of the United States*, Clarity Press, 2008), 214-231. Originally appeared in French edition, Nils Andersson, Daniel Iagolnitzer, Vincent Rivasseau (eds) *International Justice and Impunity: The Case of the United States* (Atlanta : Clarity Press), 214-232.

Bartholomew, Amy, ed. *Empire's Law: The American Imperial Project and the 'War to Remake the World'*. London: Pluto, 2006.