

# THE POLITICS OF INTERNATIONAL JUSTICE

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GOV 2531 Spring 2015

## Department of Government and Legal Studies Bowdoin College

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### **Office Hours:**

T/Th 10-11am

or by appointment

Dudley Coe 314

### **COURSE DESCRIPTION**

This course addresses the major theoretical debates and empirical trends in accountability for atrocities and human rights violations and the political dynamics of international and local justice processes. The material will address conceptual questions about justice and reconciliation, paradigmatic debates that compare different justice processes, and the historical and contemporary context of violence and justice in multiple case studies. Sections and topics include:

#### **DEFINING THE FIELD**

- Atrocity, Justice, and Reconciliation

#### **GLOBAL GOVERNANCE OF ACCOUNTABILITY**

- International and Hybrid Tribunals
- The ICC and Judicial Intervention Africa
- International Justice and Power Politics

#### **LOCAL JUSTICE: TRUTH AND TRADITION**

- Truth-Telling and Truth Commissions
- Local "Traditional" Justice

#### **THE POLITICS OF JUSTICE**

- Peace versus Justice
- Impunity Gaps

By bridging the field of international relations with international law and comparative politics, students in this course will gain an understanding of the globalization of accountability and post-conflict societal transitions from violence to peace.

### **LEARNING OBJECTIVES**

- Gain a comprehensive understanding of the theories and approaches to transitional and international justice, and an in-depth understanding of specific case studies of post-conflict states and justice institutions.
- Identify the policy relevance of theoretical arguments and vice-versa.
- Develop critical analysis skills through written assignments and participation.
- Participate frequently and contribute to class discussion and the on the blog in a manner that is intelligent, productive, and considerate.

## REQUIRED READINGS & ONLINE MATERIALS

There are no books to purchase for this course. All of the reading material is available electronically through direct web links, ebooks, or posted our Blackboard site. (Journal articles are also available through the library's e-journals collection.) You are expected to have read all the assigned material prior to the relevant classes.

## ASSIGNMENTS AND EVALUATION

Participation	10%	Ongoing in class
Blog Postings	15%	Ongoing online
Essay	25%	May 12 <sup>th</sup>
Exam #1	25%	Mar 5 <sup>th</sup> , in class
Exam #2	25%	May 5 <sup>th</sup> , take home

## Grading Scale

Letter	Percentage	GPA	Description
A	93-100%	4.0	Exceptional
A-	90-92%	3.7	Excellent
B+	87-89%	3.3	Very Good
B	83-86%	3.0	Good
B-	80-82%	2.7	Satisfactory
C+	77-79%	2.3	Satisfactory
C	73-76%	2.0	Below average
C-	70-72%	1.7	Below average
D	60-69%	0.7	Poor
F	0-59%	0	Inadequate

## Participation: 10%

Participation grades will be determined by attendance and oral participation in class. The following are general guidelines and evaluation criteria for participation:

**(A)** Exceptional contribution, characterized by being an outstanding participant by frequently and intelligently contributing to discussion. The student's participation helps to generate more and better discussion within the group. Participation demonstrated that the student completed, understood, and could critically assess the assigned material.

**(B)** Substantial contribution, characterized by meaningful involvement that added to the discussion. He or she offered productive comments or questions and participation was relevant to the readings and discussion. Participation demonstrated that the students completed and understood the assigned material.

**(C)** Expected contribution, characterized by meaningful involvement that added to the process. He or she participated consistently but not frequently. The student showed willingness and understanding during the discussion. Comments or questions were somewhat linked to the readings and discussion but it was not clear if the student understood the assigned material.

**(D)** Marginal and infrequent contribution, characterized by minor involvement that added little to the discussion. Participation did not demonstrate if he or she completed and understood the assigned material.

**(F)** Insignificant contribution, characterized by a failure to display interest or make relevant comments. The student listened but not intently and did not utilize reading material when making comments. Participation demonstrated that the student did not complete the assigned material.

### **Blog Postings (15%)**

Our course blog can be found at: <http://politicsofjustice.wordpress.com>

You are required to post once a week and your postings must be between 100-200 words. Each post can be a contribution to an ongoing conversation thread, by responding to other students' posts or questions I pose, or you can start a new conversation thread by posing your own questions and commentary. Responding to threads is preferred, as the aim is to create a dialogue instead of a series of individual and disconnected posts. Your posts should respond to international and transitional justice stories in the news AND course material. At the end of the semester you will submit for evaluation what you consider to be your best 5 posts. More details on guidelines and tips for blogging and evaluation will be distributed separately.

### **Essay (25%)**

The major written assignment for this class is an analytical essay that is due on May 12<sup>th</sup>. This topic of the essay must be chosen from the list provided (forthcoming), and must incorporate course readings and separate research on your chosen case study. The essay analysis must also engage with the theoretical and conceptual issues related to your topic, and provide policy recommendations. More details on the essay topics and guidelines will be distributed separately.

### **Exam #1 (25%)**

The first exam will take place in class on March 5<sup>th</sup>. This is the last class before spring break and all students must attend the exam—plan your travel accordingly. You are responsible for all the lecture and reading material on the “Atrocity, Justice, and Reconciliation,” “International and Hybrid Tribunals”, “ICC and Judicial Intervention in Africa”, and “ICC and Power Politics” topics. The exam will comprise short answer conceptual and essay questions.

### **Exam #2 (25%)**

The final exam will be a “take home” that due no later than 5pm on May 5<sup>th</sup>. The final exam is NOT cumulative and you are responsible for all the lecture and reading material since the first exam, including the “Truth-Telling and Truth Commissions,” “Local ‘Traditional’ Justice,” “Peace versus Justice,” and “Impunity Gaps” topics. The exam will consist of essay questions, with some choice.

### **GENERAL POLICIES AND EXPECTATIONS**

Students must abide by Bowdoin's policies and procedures, including the *Academic Honor and Social Code*, as found in the Student Handbook: <http://www.bowdoin.edu/studentaffairs/student-handbook/index.shtml>

**Assignments and Exams:** All assignments and examinations must be completed in order to pass the course. Any requests for extensions, alternative exam dates, excused absences, etc. will only be considered in the case of a personal or medical situation that would justify such an accommodation. In the event of such circumstances, notify me as soon as possible and in advance of the assignment deadline or exam and seek official accommodation from your Dean.

**Academic Honesty:** All written work submitted by students must be *original* in conception, organization, and phrasing. Sources must be appropriately acknowledged, including online materials. Work submitted in this course for evaluation must not be, or ever have been, submitted in other courses. Any violations of the college's policies may result in sanctions ranging from a failing grade on the assignment to expulsion.

**Questions and Assistance:** First, make sure you cannot answer your own question by reviewing the syllabus or the college's resources. Otherwise, quick questions regarding course content and

assignments can be directed to me by email or in person. If you have questions that require a more lengthy or private discussion, please see me during our office hours.

Office hours are time set-aside just for you. All students are welcome to come to my office hours to talk about course material, assignments, their research interests and academic goals, and any challenges they are facing in completing the assignments or participating in the class.

**Attendance:** Arrive to class on time. Arriving late is disruptive and disrespectful. Repeated and excessive tardiness will negatively affect your participation grade. You are expected to attend all classes, save for one “free pass” that will not count against your participation grade.

**Class Behavior:** Exhibit responsible, attentive, and mature behavior in class. This means avoiding any of the following: napping, talking to classmates while others are speaking, using phones, using your laptop or tablet for anything other than taking notes and class activities, consuming anything other than a quick snack or beverage, etc. I do allow the use of laptops in class, although if I notice that your use of it becomes a distraction to you or others I will ask you to put it away.

**Be respectful of your classmates! Listen to them, learn their names, respect opinions, embrace diversity, and learn from each other.**

#### **LECTURE AND READINGS SCHEDULE**

Each topic will be covered over several classes. I will provide some direction as we move along as to which readings you should complete before each class. Do the readings in the order listed unless I direct you otherwise.

There will be no class on February 19<sup>th</sup> and March 26<sup>th</sup> because I will be travelling. In lieu of these classes, there will be a make-up class scheduled outside of class for a film screening. This is a mandatory class and we will collectively decide a time and date that works best for everyone.

#### **DEFINING THE FIELD**

##### **ATROCITY, JUSTICE, AND RECONCILIATION (Jan 20, 22, 27)**

Fein, Helen. “A Sociological Definition (of Genocide)”, David Scheffer. “Atrocity Crimes” and Benjamine Valentino. “The Strategic Logic of Mass Killing” in *Genocide: A Reader*. Jens Meierhenrich (ed). Oxford: Oxford University Press, 2014: 73-75; 88-91; 163-166.

United Nations Security Council. *Report of the Secretary-General: The Rule of Law and Transitional Justice in Post-Conflict Societies*. United Nations S/2004/616, 23 August, 2004: Sections I-IV (para 1-10); Sections XI-XVI (para 34-55). <http://www.ipu.org/splz-e/unga07/law.pdf>

Leebaw, Bronwyn Anne. “The Irreconcilable Goals of Transitional Justice.” *Human Rights Quarterly* 30.95-118 (2008): 95-118.

Sikkink, Kathryn. “Introduction” in *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics*. New York: W.W. Norton & Company, Inc. (2011): 1-28.

Philpott, Daniel. “Reconciliation as a Concept of Justice” in *Just and Unjust Peace: An Ethic of Political Reconciliation*. Oxford: Oxford University Press, 2012: 48-73.

Meierhenrich, Jens. "Whither Reconciliation"? in *Genocide: A Reader*. Oxford: Oxford University Press, 2014: 470-473.

## GLOBAL GOVERNANCE OF ACCOUNTABILITY

### INTERNATIONAL AND HYBRID TRIBUNALS (Jan 29, Feb 3, 5, 10)

Sikkink, Kathryn. "The Streams of the Justice Cascade" in *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics*. New York: W.W. Norton & Company, Inc. (2011): 96-125.

Orentlicher, Diane. "'Settling Accounts' Revisited: Reconciling Global Norms with Local Agency." *The International Journal of Transitional Justice* 1 (2007): 10-22.

Schabas, William A. *The UN International Criminal Tribunals: The former Yugoslavia, Rwanda, and Sierra Leone*. Cambridge: Cambridge University Press, 2006: 13-34.

Barria, Lilian A., and Stephen D. Roper. "How Effective Are International Criminal Tribunals? An Analysis of the ICTY and ICTR" in *The International Journal of Human Rights* 9.3 (2005): 349-68.

Peskin, Victor. "Beyond Victor's Justice: The Challenge of Prosecuting the Winners at the International Criminal Tribunals for the Former Yugoslavia and Rwanda" in *Journal of Human Rights* 4 (2005): 213-31.

Cruvellier, Thierry. *Court of Remorse: Inside the International Criminal Tribunal for Rwanda*. Madison: University of Wisconsin-Madison Press, 2006: 20-37.

Cohen, David. "'Hybrid Justice' in East Timor, Sierra Leone and Cambodia: 'Lessons Learned' and Prospects for the Future" in *Stanford Journal of International Law* (2007): 1-38.

Sperfeldt, Christoph. "From the Margins of Internationalized Criminal Justice: Lesson Learned at the Extraordinary Chambers in the Courts of Cambodia" in *Journal of International Criminal Justice*. Vol. 11, No. 5 (2013): 1111-1137.

### THE ICC AND JUDICIAL INTERVENTION IN AFRICA (Feb 12, 17, 24)

Schiff, Benjamin N. "The Statute – Justice versus Sovereignty" in *Building the International Criminal Court*. Cambridge: Cambridge University Press, 2008: 68-92.

Mills, Kurt. "'Bashir is Dividing Us': Africa and the International Criminal Court in *Human Rights Quarterly* Vol. 34, No. 2 (2012): 404-447.

Tiemessen, Alana. "The International Criminal Court and the Politics of Prosecutions" in *The International Journal of Human Rights*. Vol. 18, No. 4-5, 2014: 444-461.

Peskin, Victor. "Caution and Confrontation in the International Criminal Court's Pursuit of Accountability in Uganda and Sudan" in *Human Rights Quarterly*, Vol. 31 (2009): 655-691.

Branch, Adam. "Uganda's Civil War and the Politics of ICC Intervention" in *Ethics and International Affairs*, Vol. 21 (2007): 179-198

Mueller, Susanne. "Kenya and the International Criminal Court (ICC): Politics, the Election

and the Law" in *Journal of Eastern African Studies* Vol. 8, No .1 (2014): 25-42.

**INTERNATIONAL JUSTICE AND POWER POLITICS (Feb 26, Mar 3)**

Bosco, David. *Rough Justice: The International Criminal Court in a World of Power Politics*. Oxford: Oxford University Press, 2014: (Ch 1, 4, 6) 11-22; 78-107; 139-176.

Schiff, Benjamin N. "ICC-State Relations" in *Building the International Criminal Court*. Cambridge: Cambridge University Press, 2008: 165-181.

Sikkink, Kathryn. "Is the United States Immune to the Justice Cascade?" in *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics*. New York: W.W. Norton & Company, Inc. (2011): 189-222.

**EXAM #1 (Mar 5)**

**LOCAL JUSTICE: TRUTH AND TRADITION**

**TRUTH-TELLING AND TRUTH COMMISSIONS (Mar 24, 31, Apr 2, 7)**

Mendez, Juan E. "The Human Right to Truth: Lessons Learned from Latin American Experiences with Truth-Telling" in *Telling the Truths: Truth-Telling and Peace Building in Post-Conflict Societies*. Tristan Anne Borer (ed.). Notre Dame: University of Notre Dame Press, 2006: 115-144.

Daly, Erin. "Truth Skepticism: An Inquiry into the Value of Truth in Times of Transition" in *The International Journal of Transitional Justice* 2 (2008): 23-41.

Olsen, Tricia D., Leigh A. Payne, Andrew G. Reiter & Eric Wiebelhaus-Brahm. "When Truth Commissions Improve Human Rights" in *The International Journal of Transitional Justice* 4 (2010): 457-476.

Wilson, Richard A. *The Politics of Truth and Reconciliation in South Africa: Legitimizing the Post-Apartheid State*. Cambridge: Cambridge University Press, 2001: (Ch 2) 33-61.

Leebaw, Bronwyn. "A Different Kind of Justice: South Africa's Alternative to Legalism" in *Judging State-Sponsored Violence, Imagining Political Change*. Cambridge: Cambridge University Press, 2011: 58-90.

Ross, Fiona C. "An Acknowledged Failure: Women, Voice, Violence, and the South African Truth and Reconciliation Commission" in *Localizing Transitional Justice: Interventions and Priorities After Mass Violence*. Rosalind Shaw and Lars Waldorf (ed). Stanford: Stanford University Press, 2010: 69-91.

Schabas. William A. "The Sierra Leone Truth and Reconciliation Commission" in *Transitional Justice in the Twenty-First Century: Beyond Truth versus Justice*. Naomi Roht-Arriaza and Javier Mariezcurrena (eds). Cambridge: Cambridge University Press, 2006: 21-42.

**LOCAL "TRADITIONAL" JUSTICE (Apr 9, 14, 16)**

Huysse, Luc. "Introduction: Tradition Based Approaches peacemaking, transitional justice policies and reconciliation" in Luc Huysse and Mark Salter, eds., *Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences*. Stockholm: International Institute for Democracy and Electoral Assistance: 1-20.

[http://www.idea.int/publications/traditional\\_justice/upload/Chapter\\_1\\_Introduction\\_tradition-based\\_approaches\\_in\\_peacemaking\\_transitional\\_justice\\_and\\_reconciliation\\_policies.pdf](http://www.idea.int/publications/traditional_justice/upload/Chapter_1_Introduction_tradition-based_approaches_in_peacemaking_transitional_justice_and_reconciliation_policies.pdf)

Llewellyn, Jennifer J. and Daniel Philpott. "Restorative Justice and Reconciliation: Twin Concepts in Peacebuilding" in *Restorative Justice, Reconciliation, and Peacebuilding*. Jennifer J. Llewellyn and Daniel Philpott (editors). Oxford: Oxford University, Press, 2014: 14-34.

Iliff, Andrew R. "Root and Branch: Discourse of 'Tradition' in Grassroots Traditional Justice" in *The International Journal of Transitional Justice* 6(2) (2012): 253-273.

Allen, Tim. "Ritual (Ab)use? Problems with Traditional Justice in Northern Uganda" in *Courting Conflict? Justice, Peace and the ICC in Africa*. Nicholas Waddell and Phil Clark (eds). London: Royal African Society, 2008: 47-54.

Baines, Erin K. "The Haunting of Alice: Local Approaches to Justice and Reconciliation in Northern Uganda" in *The International Journal of Transitional Justice*, Vol. 1, No. 1 (2007): 91-114.

Waldorf, Lars. "'Like Jews Waiting for Jesus': Posthumous Justice in Post-Genocide Rwanda" in *Localizing Transitional Justice: Interventions and Priorities After Mass Violence*. Rosalind Shaw and Lars Waldorf (ed). Stanford: Stanford University Press, 2010: 183-202.

Thomson, Susan. "Everyday Resistance to the Gacaca Process" in *Whispering Truth to Power: Everyday Resistance to Reconciliation in Post-Genocide Rwanda*. Madison: University Wisconsin Press, 2013: 160-182.

## THE POLITICS OF JUSTICE

### PEACE VERSUS JUSTICE (Apr 21, 23, 28)

Human Rights Watch (HRW). *Selling Justice Short: Why Accountability Matters for Peace*. New York: Human Rights Watch, 2009: Overview

<http://www.hrw.org/en/reports/2009/07/07/selling-justice-short>

Grono, Nick and Adam O'Brien. "Justice in Conflict?" The ICC and Peace Processes" in *Courting Conflict? Justice, Peace and the ICC in Africa*. Nicholas Waddell and Phil Clark (eds.). London: Royal African Society, 2008: 13-20.

Akhavan, Payam. "Are International Criminal Tribunals a Disincentive to Peace?: Reconciling Judicial Romanticism with Political Realism." *Human Rights Quarterly* 31 (2009): 624-54.

Vinjamuri, Leslie. "Deterrence, Democracy, and the Pursuit of International Justice." in *Ethics and International Affairs* 24:2 (2010): 191-211.

Cronin-Furman, Kate. "Managing Expectations: International Criminal Trials and the Prospects for Deterrence of Mass Atrocity" in *The International Journal of Transitional Justice*. Vol. 7, No. 3 (2013): 434-454.

Kersten, Mark. "Justice after the War: The International Criminal Court and post-Gaddafi Libya" in *Transitional Justice and the Arab Spring*. Kirsten J. Fisher and Robert Stewart (eds.). New York: Routledge, 2014: 188-207.

Mallinder, Louise. "Can Amnesties and International Justice Be Reconciled?" *The International Journal of Transitional Justice* 1.2 (2007): 208-30.

**IMPUNITY GAPS (Apr 30)**

Lynch, Marc. "Can the ICC Take on Syria?" in *Foreign Policy*. March 4, 2012.  
<http://foreignpolicy.com/2012/03/04/can-the-icc-take-on-syria/>

Vukusic, Iva. "Justice in Syria: If Not the ICC, Then What?" in *Justice in Conflict* blog. November 10, 2014. <http://justiceinconflict.org/2014/11/10/justice-in-syria-if-not-the-icc-then-what/>

Cronin-Furman, Kate. "Would an ICC Referral Have Helped Syria?" in Monkey Cage blog (*The Washington Post*). May 22, 2014. <http://www.washingtonpost.com/blogs/monkey-cage/wp/2014/05/22/would-an-icc-referral-have-helped-syria/>

Anonymous. "Against the Grain: Pursuing a Transitional Justice Agenda in Sri Lanka" in *The International Journal of Transitional Justice*. Vol. 4, No. 1 (2011): 31-51.

Human Rights Watch. "North Korea: UN Should Act on Atrocities Report." February 17, 2014.  
<http://www.hrw.org/news/2014/02/17/north-korea-un-should-act-atrocities-report>

**EXAM #2 (May 5<sup>th</sup>)**