

**CONF 733 – Law and Justice from a Conflict Perspective
Spring 2011**

Dr. Susan F. Hirsch

ICAR/George Mason University

Class: Tuesday 7:20-10:00

Office hours: Tuesdays or Thursdays by appt.

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This course explores law and justice from a conflict perspective. Drawing on approaches in the interdisciplinary field of sociolegal studies, the course highlights issues of concern to conflict analysis and resolution scholars and practitioners. From a conflict perspective, law is sometimes viewed in negative ways. For instance, legal proceedings are depicted as less satisfying for parties to a conflict than more informal, alternative, or restorative processes and as less likely to produce justice that all find acceptable. Relatedly, efforts to use law to address violent conflict have been characterized as precluding forms of conflict resolution that might ultimately foster peace. This course challenges these (and other) assumptions about the always problematic role of law as a response to conflict by demonstrating that law is inextricably bound to conflict resolution practices. As the course will show, efforts to resolve disputes and build peace can engage law more effectively by recognizing its multiple functions and embracing justice as a central goal.

The first half of the course focuses on areas of inquiry that provide the foundation for understanding law and justice in society, namely Dispute Processes; Law, Norms, and Violence; the Nature of Justice, and Law's Role in Constituting Identity. Course readings offer both theoretical foundations and examples of substantive conflicts in which law is often both a source of conflict and a potential vehicle for resolution. During the second half of the term, course materials and class presentations will evaluate law and justice as responses to mass violence or atrocity. The course concludes by assessing law's role in the quest to achieve peace and justice globally.

The course grade will be based on the following: attendance/participation: 25%; two 5-6 page analytic papers: 30%; a group class presentation and case portfolio: 20%; final take-home essay exam: 25%.

This course will be taught as a discussion/seminar. Students are expected to read the assigned material prior to class, post at least one comment or question on Blackboard before class, and come prepared to engage in discussion. Participation through Blackboard counts toward the class participation grade. Each of the two analytic papers will focus on the materials from the first half of the course. Papers must be turned in on the dates indicated on the syllabus and should also be posted to Blackboard. Case study groups and topics will be formed collectively in class, and groups will be given some class time to meet. You will need to work with your group outside class either in person or electronically.

Course Materials:

Readings will be available through direct download from the Web or will be posted to the Blackboard site. The following required books have been ordered through the University Bookstore:

Conley, J. and W. M. O'Barr. *Just Words: Law, Language, and Power*. Chicago, 1998.

Hajjar, L. *Courting Justice: The Israeli Military Court System in the West Bank and Gaza*. California, 2005.

Kerr, R. and E. Bobekk. *Peace and Justice: Seeking Accountability After War*. Polity, 2007.

Merry, S. *Human Rights and Gender Violence*. Chicago, 2005.

Stover, E. *The Witnesses: War Crimes and the Promise of Justice in The Hague*, University of Pennsylvania, 2005.

Zehr, *The Little Book of Restorative Justice*, Good Books, 2002.

Academic Integrity

Mason is an Honor Code university; please see the University Catalog for a full description of the code and the honor committee process. The principle of academic integrity is taken very seriously and violations are treated gravely. What does academic integrity mean in this course? Essentially this: when you are responsible for a task, you will perform that task. When you rely on someone else's work in an aspect of the performance of that task, you will give full credit in the proper, accepted form. Another aspect of academic integrity is the free play of ideas. Vigorous discussion and debate are encouraged in this course, with the firm expectation that all aspects of the class will be conducted with civility and respect for differing ideas, perspectives, and traditions. When in doubt (of any kind) please ask for guidance and clarification.

Mason Email Accounts

Students must use their MasonLIVE email account to receive important University information, including messages related to this class. See <http://masonlive.gmu.edu> for more information.

Office of Disability Services

If you are a student with a disability and you need academic accommodations, please see me and contact the Office of Disability Services (ODS) at 993-2474. All academic accommodations must be arranged through the ODS. <http://ods.gmu.edu>

University Policies

The University Catalog, <http://catalog.gmu.edu>, is the central resource for university policies affecting student, faculty, and staff conduct in university academic affairs. Other policies are available at <http://universitypolicy.gmu.edu/>. All members of the university community are responsible for knowing and following established policies.

Schedule of Topics and Readings

Disputing Processes

Jan. 25 Course Introduction and Disputing (Part 1)

Hoffmann, "Dispute Resolution in a Worker Cooperative: Formal Procedure and Procedural Justice"* read prior to class if possible
Warner, E. "A Liberian Ordeal"
Bohannan, P. "Drumming the Scandal Among the Tiv"
Hoebel, E.A. "Song Duels among the Eskimo"
Background: Newman, "A Typology of Legal Institutions"

Feb. 1 Disputing (Part 2)

Conley and O'Barr, *Just Words*

Law, Norms, and Violence

Feb. 8 Law's Violence: Discipline and Punish

Foucault, "Docile Bodies" and "The Means of Correct Training"
Yngvesson, "Kidstuff and Complaint: Interpreting Resistance in a New England Court."
White, "Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G."

Feb. 15 Law's Legitimacy

Hajjar, *Courting Conflict*
Hirsch, "Deploying Law as a Weapon: Vengeance, Social Death, and Injustice in America's War on Terror"

The Nature of Justice

Feb. 22 Foundational Perspectives and Critics

Rawls, selections from *A Theory of Justice*
Sen, "Introduction" "Reason and Objectivity" and "Rawls and Beyond"
Fraser, "Reframing Justice in a Globalizing World"

Mar. 1 Environmental Justice and Restorative Justice

Zehr, *The Little Book of Restorative Justice*

PAPER ONE DUE IN CLASS on March 1

Law and the Constitution of Identity

Mar. 8 Law's Role in Shaping Identity

French, "Dancing for Land"
Coutin, "Negotiating Identities" and "Illegalities and Non-existence"
Terrio, "Are They All Delinquents?" and "New Savages in the City"

Mar. 22 Constituting Law, Rights, and Identity
Merry, *Human Rights and Gender Violence*

Mar. 29 Speech and Rights Across Cultures: The Problem of Uncivil Speech
Readings TBA

PAPER TWO DUE April 1 by 5:00 pm

Law and Justice in Responses to Mass Atrocity

Apr. 5 Film Screening and Panel Discussion

Begin Kerr and Mobekk
View *War Don Don*

Apr. 12 Background to Law and Mass Atrocity

Goldstone, "Preventing Deadly Conflict"
Finish Kerr and Mobekk

Apr. 19 Post-conflict Retributive Justice: Focus on the ICTY

Stover, *The Witnesses*
Case presentations

Apr. 26 Post-conflict Truth Seeking: Focus on South African TRC

Nagy, "Post-Apartheid Justice: Can Cosmopolitanism and Nation Building be Reconciled?"
Gibson, J. "The Contributions of Truth to Reconciliation: Lessons from South Africa"
Case presentations

May 5 Post-conflict "Indigenous or Bottom-up Justice": Focus on Rwanda Gacaca

Des Forges and Longman, "Legal Responses to Genocide in Rwanda"
Stovel and Vaninas, "Restorative Justice after Mass Violence: Opportunities and Risks for Children and Youth"
Case presentations

FINAL TAKE-HOME ESSAY EXAM DUE May 16 at noon

Hoffmann, E. 2005. "Dispute Resolution in a Worker Cooperative: Formal Procedure and Procedural Justice." *Law and Society Review* 39.1:51-82. ejournals.

Warner, E. "A Liberian Ordeal." In: *Law and Warfare: Studies in the Anthropology of Conflict*. P. Bohannan (ed.) Garden City: The Natural History Press, 1967. Provided in class.

Bohannan, P. "Drumming the Scandal Among the Tiv." In: *Law and Warfare: Studies in the Anthropology of Conflict*. P. Bohannan (ed.) Garden City: The Natural History Press, 1967. Provided in class.

Hoebel, E.A. "Song Duels among the Eskimo." In: *Law and Warfare: Studies in the Anthropology of Conflict*. P. Bohannan (ed.) Garden City: The Natural History Press, 1967. Provided in class.

Newman, K. "A Typology of Legal Institutions." In: *Law and Economic Organization: A Comparative Study of Preindustrial Societies*. Cambridge: Cambridge, 1983. Background.

Foucault, M. 1979. "Docile Bodies" and "The Means of Correct Training." From *Discipline and Punish: the Birth of the Prison*. New York: Vintage.

Yngvesson, B. 1994. "'Kidstuff' and Complaint: Interpreting Resistance in a New England Court." In *Contested States: Law, Hegemony, and Resistance*. M. Lazarus-Black and S. Hirsch (ed.) New York: Routledge. Bb.

White, L. 1991. "Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G." In: *At the Boundaries of the Law: Feminism and Legal Theory*. Fineman and Thomadsen (ed.). New York: Routledge. Bb.

Hirsch, S. F. 2009. "Deploying Law as a Weapon: Vengeance, Social Death, and Injustice in America's War on Terror." In: *The Insecure American*. H. Gusterson and C. Bestemann. Univ. of California Press. Bb.

Rawls, J. 1971. Selections from *A Theory of Justice*. Harvard Press. Bb.

Sen, A. 2009. Selections from *The Idea of Justice*. Harvard Press. Bb.

Fraser, N. 2009. "Reframing Justice in a Globalizing World." In: *Scales of Justice: Reimagining Political Space in a Globalizing World*. Columbia.

French, J. 2002. "Dancing for Land: Law-Making and Cultural Performance in Northeastern Brazil." *PoLAR: Political and Legal Anthropology Review* 25.1:19-36. ejournal.

Coutin, S. 2000. "Negotiating Identities" and "Illegals and Non-existence." From *Legalizing Moves: Salvadoran Immigrants' Struggle for U.S. Residency*. Ann Arbor: University of Michigan Press. Bb.

Terrio, S. 2009. "Are They All Delinquents" and "New Savages in the City" from *Judging Mohammed: Juvenile Delinquency, Immigration, and Exclusion at the Paris Palace of Justice*. Stanford.

Goldstone, R. 2003. "Preventing Deadly Conflict: The Role of International Law." Joan B. Kroc Distinguished lecture series. Available at <http://peace.sandiego.edu/events/DLS/IPJBookGoldstone.pdf>

Nagy, R. 2006. "Post-Apartheid Justice: Can Cosmopolitanism and Nation Building be Reconciled?" *Law and Society Review* 40.3:623-652. ejournal.

Gibson, J. L. "The Contributions of Truth to Reconciliation: Lessons from South Africa." *Journal of Conflict Resolution* 50 (2006): 409-432. ejournal.

Des Forges, A. and T. Longman. 2004. "Legal Responses to Genocide in Rwanda." In *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*. E. Stover and H. M. Weinstein, eds. Cambridge University Press. Bb.

Stovel and Vaninas, "Restorative Justice after Mass Violence: Opportunities and Risks for Children and Youth." Available at <http://www.unicef-irc.org/publications/612>.