

**Post-Conflict Justice Workshop**  
**University of Hong Kong, Faculty of Law**  
**December 2011**

**PROFESSOR:** David Pimentel, Associate Professor, Florida Coastal School of Law  
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**REQUIRED RESOURCES:**

Stromseth, Wippman, Brooks, *Can Might Make Rights? Building the Rule of Law after Military Interventions* (Cambridge Univ. Press 2006)

Additional readings are assigned as well. They will be provided to you electronically, or hyperlinks will be provided for where you can find them on the Internet.

**CLASS SESSIONS:**

Tuesday, December 13, 2011	Morning – 9:30-12:30 Afternoon – 14:00-17:00
Wednesday, December 14, 2011	Morning – 9:30-12:30 Afternoon – 14:00-17:00

**COURSE DESCRIPTION/GOALS:**

This workshop is designed to give an introduction to (1) the role justice plays promoting peace and reconciliation in a post-conflict environment, and (2) the challenges inherent in establishing the Rule of Law in post-conflict societies.

**READING ASSIGNMENTS:**

Week	Topic	pgs	Source
Dec 12 (Mon) morning	<b>What is Post-conflict Transitional Justice?</b> Defining/Measuring the Rule of Law; “Imposing” the Rule of Law – the problem of cultural imperialism	30	Stromseth, pp. 1-13, 56-68, 181-84
		7	Carothers (excerpt), pp. 15-24
		11	<a href="#">UN doc S/2004/616</a> , pp. 1-11 (summary and §§ I –X) <a href="#">Casper</a> (optional) <a href="#">Kleinfeld Belton</a> (optional)
		5	Stromseth, pp. 188-92
Dec 12 (Mon) afternoon	<b>Looking back: post-conflict justice for the crimes of the conflict</b> - Criminal Prosecutions  - Non-judicial mechanisms (e.g. Truth and Reconciliation Commissions)	5	Restorative Justice Tutorial, pp. 1-5
		3	Pimentel, <a href="#">Indigenous Justice</a> , pp. 1-3
		17	Stromseth, 249-58, 263-65, 271-74
Dec 12 (Mon) afternoon	- Non-judicial mechanisms (e.g. Truth and Reconciliation Commissions)	5	<a href="#">UN doc S/2004/616</a> , pp. 13-17 (§§ XII-XIII)
		25	Stromseth, 274-78, 285-99, 305-09
		6	“Long Night’s Journey into Day” readings Hayner (pp. 10-11), Minow (pp. 16-17), Morgan (pp. 26-27) (on portal)
		2	<a href="#">UN doc S/2004/616</a> , p. 17, 18-19 (§ XIV, XVI)

	- Non-state justice mechanisms	7 3	Stromseth, pp. 334-40 Pimentel, <a href="#">Rule of Law</a> , pp.1-3 Pimentel, <a href="#">Rule of Law</a> , pp. 3-28 (optional)
Dec 13 (Tue) morning	<b>Looking forward: to establish the Rule of Law</b> Judicial system reform strategies– - The problem of judicial independence - The problem of public confidence  Anti-corruption	5 17  2 8 13 2	Stromseth, pp. 184-88 Stromseth, 226-30, 235-43, 246-48  <a href="#">UN doc S/2004/616</a> , pp. 12-13 (§ XI) <a href="#">Pope</a> , pp.1-3, 7-9, 11-12 <a href="#">Mungiu-Pippidi</a> <a href="#">UN doc S/2004/616</a> , pp.17-18 (§ XV)
Dec 13 (Tue) afternoon	<b>Looking forward (cont'd)</b> Law Reform Police and Prison reform Access to justice Legal empowerment <b>Creating RoL cultures</b>	8 25 3  8 6 2	Stromseth, pp. 192-99 Stromseth, pp. 202-226 Stromseth, pp. 243-46 Golub article (optional) Stromseth, pp. 327-34 Stromseth, pp. 340-45 <a href="#">UN doc S/2004/616</a> , pp.9-10 (§ IX)

### Sources/Readings (including optional and background material)

- Carothers, “The Problem of Knowledge,” pp. 15-24
- “The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies,” Report of the United Nations Secretary General, S/2004/616 (2004). (Summary and Sections I-IV) [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2004/616](http://www.un.org/ga/search/view_doc.asp?symbol=S/2004/616) or <http://www.un.org/Depts/dpko/dpko/reports.htm> (choosing document S/2004/616 from the list, about the 12<sup>th</sup> one down)
- Casper, “Rule of Law? Whose Law?” [http://iis-db.stanford.edu/pubs/20677/Rule\\_of\\_Law.pdf](http://iis-db.stanford.edu/pubs/20677/Rule_of_Law.pdf)
- Scalia, “The Rule of Law as a Law of Rules,” 56 U. Chi. L. Rev. 1175 (1989) <http://cyber.law.harvard.edu/bridge/Philosophy/rollor.txt.htm> (excerpt) (for those interested in reading more, you can find the full article at <http://www.joink.com/homes/users/ninoville/ruleoflaw.asp>)
- Kleinfeld Belton, “Competing Definitions of the Rule of Law” <http://www.carnegieendowment.org/files/CP55.Belton.FINAL.pdf>
- Long Night’s Journey Into Day Study Guide (Iris Films), pp. 10-17, 26-27
- David Pimentel (articles available at [http://works.bepress.com/david\\_pimentel/](http://works.bepress.com/david_pimentel/))
  - “Reframing the Independence v. Accountability Debate: Defining Judicial Structure in Light of Judges’ Courage and Integrity,” 56 CLEV. ST. L. REV. 1 (2009); pp. 1-4, 25-28, 39-50.
  - “Restructuring the Courts: In Search of Basic Principles for the Judiciary of Post-war Bosnia and Herzegovina,” 9 CHI. J. INT’L LAW 107 (2008), pp. 107-24
  - “Rule of Law Reform without Cultural Imperialism: Strengthening Customary Justice through Collateral Review in Southern Sudan,” 2 HAGUE J. ON RULE L. 1 (2010)

- “Legal Pluralism and the Rule of Law: Can Indigenous Justice Survive?” 32(2) HARV. INT’L. REV. 32 (2010)
- Jeremy Pope, “The Challenge of Renovation” (only pp. 1-3, 7-9, 11-12), in Confronting Corruption: The Elements of a National Integrity System, Transparency International Source Book (Transparency International, 2000), [http://www.transparency.ie/about\\_cor/Files/Sourcebook01.pdf](http://www.transparency.ie/about_cor/Files/Sourcebook01.pdf)
- Alina Mungiu-Pippidi, “Corruption: Diagnosis and Treatment,” Journal of Democracy vol. 17, no. 3 (July 2006). [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1557727](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1557727)
- Stephen Golub, “The Legal Empowerment Alternative,” in Thomas Carothers, ed., Promoting the Rule of Law Abroad: In Search of Knowledge, (Carnegie Endowment for International Peace, 2006). (pp. 161-85, 25 pages)
- “The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies,” Report of the United Nations Secretary General, S/2004/616 (2004) (pp. 1-20) [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2004/616](http://www.un.org/ga/search/view_doc.asp?symbol=S/2004/616)