



**Summer Institute in International Humanitarian Law and Human Rights
'Transitional Justice and Post-Conflict Human Rights'**

**Organized by
the Asian International Justice Initiative
a collaboration between
the U.C. Berkeley War Crimes Studies Center and the East-West Center**

**in partnership with
The Indonesian National Human Rights Commission (Komnas-HAM)**

June 22 – July 3, 2009

Overview

The Summer Institute in International Humanitarian Law ('IHL') and Human Rights is a regionally based workshop held in partnership with organizations in Southeast Asia to consider key IHL and human rights issues facing the region. Established in 2008, the Summer Institute is designed for participants working across a broad range of fields and disciplines and is best suited to those within the Asia Pacific region, whose work has an Asia Pacific focus, or who wish to engage in comparative analysis regarding transitional justice, post-conflict human rights mechanisms, and other issues of central concern in the region.

The second Summer Institute, which will be held in Bali in 2009 next year, will focus on the theme of transitional justice and human rights. It will provide participants with an in-depth look at the key processes being utilized to deal with gross IHL and human rights violations committed throughout the Southeast Asian region. Some of the processes that will be considered during the course include: post-conflict trials (conducted by both domestic and internationalized or 'hybrid' courts), commissions of inquiry and investigation, reconciliatory processes (including truth and reconciliation commissions), and forms of delivering reparations and victims' rights. It will then examine rights-based approaches to conflict resolution, particularly focusing on national human rights institutions (NHRIs) and their role in strengthening justice systems, human rights protection and promotion, and the investigation of human rights violations. This part of the course will also consider the 'lessons learned' from NHRIs for the establishment of an ASEAN human rights body.

The aim of the course is to provide participants with skills and knowledge that will:

- (i) enhance their performance in IHL and human rights-related fields (be it as judges, lawyers, government officials, NGO workers) or as observers of those working in those fields (as academics, monitors, journalists and human rights educators);
- (ii) promote skills-development that will enhance the effectiveness of reporting, analysis, forensic investigation, and prosecution of human rights violations. These skills will

- also contribute to mediation, reconciliation, and reinstatement of human rights norms in conflict situations;
- (iii) enable them to assess the effectiveness of transitional justice and human rights mechanisms within the regional context (and from a broad range of perspectives); and
 - (iv) assist them to contribute more meaningfully to the ongoing debates regarding how best to improve upon these mechanisms.

In this regard, the Summer Institute has a “practice-oriented” professional and academic focus: rather than providing participants with a ‘textbook’ course on IHL and human rights, it engages them to think about both the practical and theoretical problems associated with implementing transitional justice and human rights mechanisms within the wider political context in which they operate. The Summer Institute faculty includes distinguished practitioners and experts from the region and beyond. The program aims to develop both the legal and political knowledge of the participants, and also the practical skills necessary for people who are working in the field in conflict or post-conflict situations. Unlike other courses currently on offer in Europe and North America, the Summer Institute focuses primarily on the Asia Pacific region, using case studies and examples from across the ASEAN countries as its starting point for discussion and debate.

The application deadline is 1 February, 2009. Applicants are encouraged to apply early, and will have the greatest chance of receiving one of a limited number of scholarships (assuming their application complies with scholarship conditions and fund availability) if they meet this deadline.

Recommendations are due on 15 February 2009.

Who should apply

The Summer Institute is aimed at professionals and practitioners working throughout a broad range of fields dealing with the legal, political, or humanitarian context of transitional justice. This would include advocates in human rights or peace, humanitarian workers, legal officers, advanced (graduate-level) students, academics, government officials, members of international or regional organizations, and military or security personnel. Although the course is open to participants internationally, individuals who show a strong interest in IHL and human rights as it pertains to the Asia Pacific region and those living within ASEAN countries are particularly encouraged to apply. It is currently envisaged that 30 places will be made available for this course.

Structure of the course

The two-week course comprises a ‘core’ curriculum and two electives. The ‘core’ curriculum is taught every weekday during the morning sessions and all participants will be expected to attend. The first week of the core course will focus on transitional justice. The second week of the core course will focus specifically on gross human rights violations (both within and outside conflict periods) as well as the work of national human rights institutions in promoting and protecting human rights – particularly civil and political rights.

Elective classes will be taught during the afternoon sessions of the course. While the core curriculum will focus on institutions and issues of general importance, the electives will allow participants to focus on issues or areas of interest for their particular career path. The electives

will draw upon in-depth case studies from throughout the region. This year, Summer Institute will offer two electives: (i) judicial mechanisms and truth commissions and (ii) human rights investigation, documentation and reporting. Each elective strand will focus on looking at the way these mechanisms operate at the local, national, regional and international level. Applicants must choose **one** elective on their application form.

Apart from participating in discussions in the course meetings, the program will also provide opportunities for participants to interact informally with the faculty experts.

(i) Elective One: Judicial Mechanisms and Truth Commissions

The prosecution of war crimes and crimes against humanity in the aftermath of international or internal conflict has become an established transitional justice mechanism through which human rights violators are held accountable for atrocities. Yet at the same time, trials alone are perceived as a narrow forum through which to address the multitude of concerns expressed by the victims of these crimes: the choice of who to prosecute is often too specific (focusing on top-level commanders, without allowing for those who actually did the crimes to face indictment) or too broad (focusing on low-level commanders, without allowing for the commanders in charge to be held accountable). As a result, truth commissions are often established at the same time or immediately following trials, as an alternative mechanism through which facts can be established and justice can be served: in this regard, the retributive function of the trial, in which some perpetrators are held accountable, is perceived to be complemented by the restorative function of the truth commission, in which other perpetrators are able to admit to past wrongs and seek forgiveness.

This elective will focus first, on trials, and second, on truth commissions from a practical legal and human rights perspective. It will look specifically at how prosecutors seek to indict alleged perpetrators, how investigations are conducted, what kind of evidence is required to secure conviction and how courts have treated the evidence presented. It will then consider the establishment of truth commissions, their relation to concurrent judicial processes, their mechanisms for fact gathering and conducting hearings, and the challenges they face in preparing effective reports and meeting public expectations. Case studies will include the mechanisms developed to seek truth and accountability in Cambodia, East Timor, and Indonesia.

(ii) Elective Two: Human Rights Investigation, Documentation and Reporting

The investigation and documentation of human rights abuses is pivotal to enable societies in transition to move from wartime to peacetime. It is only through the ongoing work of individuals in commissions of inquiry, human rights commissions, as well as non-governmental organizations representing the interests of particular victims' groups, that human rights violations are drawn to the attention of those who stand to make a difference and stop ongoing abuses.

This elective will focus on both providing participants with insights into the conduct of the investigations process (either through forensic investigations or through empirical studies and surveys) as well as accurately documenting and reporting human rights abuses in policy papers and reports. The course will be taught by experts in the field with extensive experience in these areas, many of whom have been conducting investigations or writing reports in the area for over twenty years. Both of the electives will be highly interactive and emphasize participant engagement with the faculty.

Field trip

Following on from the two-week course, participants are invited to partake in a 3-day field trip to Cambodia at their own expense. Participants will engage with a number of NGOs, lawyers, prosecutors and human rights activists working both in and around the Extraordinary Chambers in the Courts of Cambodia – an internationalized tribunal established by the United Nations in cooperation with the Cambodian government.