



## COURSE SYNOPSIS

### OF THE

### Summer Institute in International Humanitarian Law and Human Rights

### Asia Pacific Transitional Justice and Peace-building

Organized by  
the Asian International Justice Initiative  
a collaboration between the UC Berkeley War Crimes Studies Center  
and the East West Center  
in partnership with  
Mahidol University Office of Human Rights Studies and Social Development

11-24 May 2008  
Bangkok, Thailand

#### Monday, 12 May 2008<sup>1</sup>

**10:20 AM – 12:30 PM** **An Introduction to Transitional Justice and Peace-building in Asia (Part I): What is Transitional Justice?** *Suzannah Linton, David Cohen*

**Lecture.** This introductory seminar, largely conducted in lecture format, will introduce participants to one of the two core themes of the course: namely, transitional justice. Professor Linton will introduce the context and the theoretical basis, as well as explain some of the concepts and terminology used. Professor Cohen will introduce participants to two major case studies in Southeast Asia that will be looked at further throughout the two weeks: Indonesia / East Timor and Cambodia.

**1:30 PM – 3 PM** **An Introduction to Transitional Justice and Peace-building in Asia (Part II): Justice, Human Rights and Peace-building in Asia** *Vitit Muntarbhorn*

**Lecture.** Following on from an introductory session on the theme of transitional justice, participants will then be introduced to the second major theme of the course: human rights and peace-building. Expert Vitit Muntarbhorn will discuss the link between justice, human rights and peace: do they each have incompatible goals, or are they each significant in ensuring a sustainable resolution to conflicts?

---

<sup>1</sup> Sessions with \* are constructed with a half-hour break.

## Monday, May 12, 2008 (continued)

3:30 – 5PM

**Transitional Justice and Peace-building in Asia: An Overview of Regional Developments and Perspectives** *Vitit Muntarbhorn, Justice Motoo Noguchi*

**Discussion.** Drawing from their expertise as Special Rapporteur on the Human Rights situation in Korea and Professor at UNAFEI respectively, Professor Vitit Muntarbhorn and Professor Judge Noguchi will discuss some regional perspectives on human rights and peace-building.<sup>2</sup> What does ‘human rights’ mean in the Asia-Pacific context? Is this essentially a ‘Western’ concept, or is the idea of human rights as Western-centric a myth perpetuated so governments can ignore human rights abuses? Is there any link between transnational crime and weak human rights systems? What strategies are being used to prevent transnational crime in Asia, and are these effective?

## Tuesday, 13 May 2008

9:10 AM – 12:30 PM\* **Transitional Justice Approaches I: Truth Commissions & Fact-finding** *Suzannah Linton*

**Seminar.** Having introduced the participants to the general concept the day before, Professor Linton will introduce the broad array of approaches to dealing with the past, moving into focus on fact-finding through commissions of inquiry and ‘truth and reconciliation’ commissions. This will prepare the participants for the later sessions specifically focusing on Indonesia / East Timor and Cambodia.

1:30 – 5 PM\*

**Electives One & Two: Conceptualizing Peace and Conflict** *Chaiwat Satha-anand*

**Seminar.** Following on from a previous lecture on the link between justice, human rights and peace, this lecture looks more specifically at conceptions of peace-building and ending conflict. Expert Chaiwat Satha-anand will introduce the key concepts of peace-building theory and begin to familiarize participants with some non-legal approaches to establishing sustainable peace.

## Wednesday, 14 May 2008

9:10 AM – 10:30 AM **Transitional Justice Approaches II: Prosecutions** *Judge Liu Daqun*

**Seminar.** This seminar focuses on criminal prosecution as an essential part of a country (or region’s) response to massive human rights violations. Judge Liu will begin by looking at the proliferation of international criminal judicial bodies, especially during the last decade, focusing in particular on the legacy of the Nuremberg trials and the notion of ‘victors’ justice’. He then turns to look at the so-called centralized international criminal tribunals to analyze their advantages and problems. Finally, Judge Liu will turn to discuss the so-called decentralized criminal tribunals – for instance, the SPSC, SCSL, ECCC - as well as summing up the function of the judiciary at these tribunals.

---

<sup>2</sup> ‘UNAFEI’ stands for the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders.

## Wednesday, May 14, 2008 (continued)

**10:50 AM – 12:30 PM Transitional Justice Approaches II: Prosecutions – The ICC, the Principle of Complementarity and Ratification of the Rome Statute** *Judge Liu Daqun, Judge Motoo Noguchi*

**Seminar.** After considering the proliferation of international tribunals as a response to mass atrocity, this seminar then turns to look at the ICC as the ‘court of last resort’, and the principle of complementarity. While domestic courts remain the ‘preferred option’ for trials of alleged human rights violators, thus far the proliferation of international mechanisms dealing with mass atrocity has not been matched with similarly credible domestic efforts to obtain justice for victims. Is the ICC likely to become both a moral and legal arbiter in this regard? Both Judge Liu and Judge Noguchi will then turn to discuss perceptions of the ICC in China and Japan, and the road to ratification for Asian nations.

**1:30 – 5 PM\* Electives One & Two: The Judges’ Perspective: The Special Panels for Serious Crimes, East Timor, the ECCC & the ICTY**  
*Judges Daqun, Noguchi and Da Costa*

**Panel Discussion.** This is a panel discussion during which Judges Daqun, Noguchi and Da Costa will share their experience of working at international tribunals. After each presenting an overview of the situation in which they work, the floor will be opened to participants to ask questions of the judges.

## Thursday, 15 May 2008

**9:10 – 10:30 AM Transitional Justice Approaches III: Reparations and Reconciliation** *Houmayoun Alizadeh - TBC*

**Seminar.** According to the International Center for Transitional Justice, while ‘the word “reconciliation” continues to figure prominently both in the literature and the practice of transitional justice’ there is still generally ‘a lack of consensus about what the term exactly means, what activities it encompasses, or what achieving such a condition would require.’ What does reconciliation mean in the Asia-Pacific context? What avenues towards healing have been effective, and how have they been achieved? Expert [Houmayoun Alizadeh] from the Office of the High Commissioner for Human Rights in Bangkok will share some of his insights on reconciliation from his work in the field.

**10:50 AM – 12:30 PM Transitional Justice Approaches III: Reparations and Reconciliation (cont’d)** *Judge Noguchi*

**Seminar.** Reparations are one way in which victims can seek redress for past wrongs. It provides an important dimension to the empowerment of victims in the transitional justice context. Judge Noguchi will discuss the victims’ reparations scheme at the Extraordinary Chambers in the Courts of Cambodia. He will also look at victim participation (in the trial).

## Thursday, May 15, 2008 (continued)

**1:30 – 5 PM\***                    **Elective One (Judicial Mechanisms and Truth Commissions):  
Theories of Liability** *Judge Liu*

**Seminar.** This seminar will take an in-depth look at international criminal prosecutions, focusing on modes of liability that have been developed through the jurisprudence of the international criminal tribunals. After broadly looking at the basic elements of criminal prosecution (*mens rea, actus reus*) Judge Liu will take participants through the elements of proving individual criminal responsibility (including joint criminal enterprise) and superior responsibility – doctrines which have become central to extending the ambit of accountability for human rights violations committed during periods of conflict.

**1:30 – 5 PM\***                    **Elective Two: Case Study Burma – Peace Agreements, the Draft  
Constitution and Ethnic Peace-building After the Ceasefire** (*Expert  
TBC*)

The situation in Burma forms a major case study for the peace-building component of this course. This seminar will look specifically at the role of peace agreements and the draft constitution (due to be voted on, on May 24) in building peace.

## Friday, 16 May 2008

**9:10 AM – 12:30 PM\***    **Defending Alleged Human Rights Violators** *Rupert Skilbeck*

**Seminar.** After focusing on prosecution and reconciliation, the course then turns to look at the rights of those accused of committing human rights violations in the transitional justice context. What safeguards are afforded the accused, and how are these enforced, in practice? Expert Rupert Skilbeck will share his experience as head of two defence units at internationalized tribunals (Bosnia, Cambodia) with participants. Exercises in fair trial rights and the ethics of defence will be included as part of this seminar.

**1:30 – 5 PM\***                    **Elective One (Judicial Mechanisms and Truth Commissions):  
CAVR & CTF (Exercise on Fact-finding)** *David Cohen*

**Seminar.** This seminar will look more closely at the two truth commissions established in East Timor – namely, the Commission for Reception, Truth and Reconciliation (CAVR) and the Indonesia/East Timor Commission for Truth and Friendship (CTF). Professor David Cohen will discuss his experience as international expert for the CTF, focusing specifically on the skills required to establish facts for the commissions' reports. An exercise will form part of this seminar.

**1:30 – 5 PM\***                    **Elective Two: Gender, Peace and the Mindanao Peace Process**  
*Irene Santiago*

**Seminar.** This seminar will look at the peace process in Mindanao (the Philippines) with a particular focus on the role of women in peace-building. Expert Irene Santiago will share her extensive experience with peace-building in the Philippines.

## Monday, 19 May 2008

**9:10 AM – 12:30 PM**      **Peace-building Approaches I: Human Rights Commissions** *Eni Soeprapto - TBC*

**Seminar.** This seminar will look at the establishment of national human rights commissions in Southeast Asia, and the role that such institutions currently play in promoting and protecting human rights. Currently, there are four human rights commissions in ASEAN countries: Malaysia, Indonesia, the Philippines and Thailand. Expert Eni Soeprapto will speak about his role as Commissioner at KOMNAS-HAM and the challenges associated with enforcing human rights in Indonesia.

**1:30 – 5 PM\***                      **Electives One and Two: How to Write a Convincing Human Rights Report** *Sidney Jones*

**Seminar.** This skills-based seminar looks at effective human rights report-writing, and the key features for ensuring reports written gain the attention of key policy-makers. Expert Sidney Jones will provide practical insights on reporting for International Crisis Group with participants.

## Tuesday, 20 May 2008

**9:10 – 12:30 PM\***                      **Peace-building Approaches – Case Study Burma** *Eric Stover*

**Seminar.** Professor Stover will share his experience of documenting and reporting human rights violations in Burma from his recently released report ‘The Gathering Storm’.

**1:30 – 5 PM**                              **Elective One (Human Rights Investigation, Documentation and Reporting): Gathering Evidence – Mass Graves, Land Mines and Child Soldiers** *Eric Stover*

**Seminar.** Forensic expert Eric Stover shares his experience of evidence gathering with the group. As the first mass graves expert to testify at the International Criminal Tribunal for the Former Yugoslavia, Professor Stover’s research has set the stage for evidence gathering at the international level. This forms the third and final seminar on evidence gathering and fact-finding for Elective One.

**1:30 – 5 PM**                              **Elective Two: Case Study Cambodia** *Theary Sen*

**Seminar.** Theary Seng, director of leading human rights NGO the Center for Social Development, Cambodia, will discuss peace-building in Phnom Penh and the provinces and give some tips on effective outreach strategies for the work of NGOs in the region.

## Wednesday, 21 May 2008

### 9:10 AM – 12:30 PM **Peace-building Approaches II: Peace Agreement Negotiations and Strategies for Sustainable Peace** *Carlos Medina Jr*

**Seminar.** How does one negotiate a peace agreement effectively? What strategies can governments and civil society actors put into place to ensure sustainable peace? Expert Professor Carlos Medina will share his insights from the case of the Philippines, where he has been involved in several governmental efforts towards peace.

### 1:30 – 5 PM **Elective One (Human Rights Investigation, Documentation and Reporting): Victims' Rights Panel** *Theary Seng, Eric Stover, Michelle Staggs*

**Panel Discussion.** This panel discussion will focus on the notion of victims' rights in international criminal law and international humanitarian law. Expert Eric Stover will share his experience from work undertaken with victim-witnesses in the former Yugoslavia, Theary Seng will discuss her experience as a victim of the Cambodia genocide and her victim participation project, and Michelle Staggs will discuss research findings from work with sexual violence victims in Sierra Leone. The floor will then be open for questioning.

### 1:30 – 5 PM **Elective Two: Peace-building Approaches Case Study – Thailand** *Phornpen Kongkhajornkiat / Sunai Pasuk*

**Seminar.** Experts Phornpen Kongkhajornkiat and Sunai Pasuk share their experiences working in Thailand on peace-building initiatives. Challenges from the field will be discussed in-depth.

## Thursday, 22 May 2008

### 9:10 – 10:30 AM **The Legacy of Hybrid Tribunals** *Michelle Staggs*

**Seminar.** What happens after a tribunal ceases its operations within a country where a conflict has occurred? How can such tribunals ensure that they leave a lasting legacy of peace? Michelle Staggs will present her work as part of the panel of experts that commented on the OHCHR Policy Tool on Hybrid Tribunals, as well as field experience from Sierra Leone.

### 10:50 AM – 12:30 PM **[Guantanamo Bay and the Prohibition Against Torture]** *Eric Stover – TBC*

**Seminar.** Expert Eric Stover will share his recent experiences interviewing former Guantanamo Bay detainees. This will be followed by a larger discussion on the prohibition against torture as a norm of *jus cogens* and the distinction between cruel, inhuman and degrading treatment and torture as a matter of international law.

This seminar is yet to be confirmed.

## Thursday, May 22, 2008 (continued)

1:30 – 5 PM\*

**Electives One & Two: Troubles for Humanitarianism: Privatization, the Role of the Military, Impartiality and Neutrality**  
*Panel of Humanitarian Workers from MSF, Care, Oxfam and ICRC*

**Panel Discussion.** Having traversed the range of transitional justice and peace-building approaches implemented in the aftermath of conflict, the course then considers some of the current novel challenges for humanitarian workers seeking to prevent atrocities in on-going wars. In particular, the panel will discuss how the privatization of armed forces has affected humanitarian work. Experts from leading humanitarian organizations will discuss their experiences in this regard.

## Friday, 23 May 2008

9:10 AM – 12:30 PM **Peace-building Approaches III: A Rights-based Approach to Conflict Prevention** *Sriprapha Petcharamesree*

**Seminar.** Director of the Office of Human Rights Studies and Social Development Sriprapha Petcharamesree will discuss human rights approaches to conflict prevention. She will particularly focus on ASEAN's initiatives in this regard.

1:30 – 3 PM

**Electives One & Two: Round-up of the Course – Future Directions for Transitional Justice and Peace-building in Asia: ASEAN's vision** *David Cohen, Michelle Staggs, Sriprapha Petcharamesree, Mike Hayes, Yukiko Nishikawa*

**Panel Discussion.** This panel discussion will look at the themes of the course and consider the material covered over the two weeks. The panel will then look prospectively at the future of peace in the region, commenting on 'lessons learned' from the experiences of Cambodia, East Timor, Southern Thailand and Mindanao. The floor will be open to questions from the participants.

3 - 4 PM

Giving of certificates / Final round-up