POL492H1 S: Topics in Comparative Politics

Rule of Law in Post-Conflict Governance

Winter/Spring 2024: Mondays 1:00-3:00 pm

Instructor:	Ghizal Haress
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Office Hours:	Mondays 4:00-5:00 or by appointment
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Overview:

The process of (re)establishing the rule of law after conflict is an intricate task characterized by complexities and challenges. It requires extensive structural design changes that extend across various areas of governance, legal, and judicial systems and entail careful modification of institutional frameworks, legal norms, and governance mechanisms. However, the process also involves addressing deep-rooted issues, which include, among others, a lack of trust in the justice system, often due to previous injustices and corruption; old laws that fail to address the needs of post-conflict society and do not adequately protect human rights; damaged infrastructure and limited resources; striking a balance between pursuing justice and reconciliation while promoting unity; and persistent security concerns making it challenging to enforce laws and protect vulnerable populations. Addressing these challenges often requires the involvement of both domestic and international actors, which presents its own set of challenges.

The course explores the challenges of governance and the rule of law in post-conflict societies. It aims to provide students with a comprehensive understanding of post-conflict governance, including the challenges and solutions that shape these complex environments. The course aims to cover various topics related to governance and the rule of law, including understanding the challenge of governance and the rule of law, creating a constitution, building state institutions, implementing legal and judicial reforms, protecting fundamental rights, ensuring accountability for war crimes, and combating corruption. The course will use a case study methodology with Afghanistan as the primary case but will also use examples from other countries like Iraq, Kosovo, East Timor, and some countries in Africa and Central America, among others. The class will critically analyze national and international strategies and methodologies and their strengths, shortcomings, and long-term consequences.

Expected learning outcomes: By the end of this course, students will be able to achieve the following learning outcomes:

- Analyze the challenges and dynamics of governing post-conflict societies, emphasizing addressing legal and rule of law issues.
- Explore different approaches and tools to promote the rule of law and evaluate their potential and limitations.
- Compare and contrast case studies from other post-conflict societies facing challenges in promoting the rule of law.

Course Format:
Active participation and full attendance are mandatory for this class. This is a seminar focused on reading and interactive discussion.

The course will use Quercus for all course information and assignments. Students must regularly check Quercus for course details and submit all written assignments through the platform.

Required course material:
This course will use different material, including journal articles, book chapters, reports, conference proceedings, media articles, and documentaries. The syllabus will indicate the assigned readings for each week. The students can access the book chapters and journal articles through the University of Toronto libraries. Other material links are provided in the syllabus for students to download. Students must complete all required readings before the class.

Grading and Assessed Coursework:

Assignment:	Due Date	% of Overall Grades
Participation and attendance	Every class	25%
Literature analysis presentation	Different dates	15%
Case Study Presentation	March 18, 2024	30%
Research Essay	March 4, 2024	30%

Class participation 25%
Attending the sessions regularly and actively participating in class discussions is crucial for students' learning and success in this course. This requires the students to read the required readings and engage in active discussion in the class, answer questions, and raise their questions related to the topics. Starting from week 2, students earn participation points by attending class (1% per class) and participating in discussions (1.5% per class). The quality of student engagement is as important as the quantity. Students are allowed one absence without justifying.

Literature Analysis Presentation %15
During the semester, students will choose one reading from the course reading list and lead discussions on it. In the second week of the semester, students review the course syllabus and select one reading from the course reading list that they find particularly interesting and thought-provoking. The students can choose readings and dates available on a first-come, first-

served basis. When analyzing a reading, students should remain objective and avoid personal biases.

Students review the reading to develop a clear understanding of the author's central thesis and arguments. Students engage in critical thinking by asking questions such as:

- What is the overall assessment of the thesis and the arguments?
- How is the argument substantiated, and is it convincing?
- Are there any potential biases in the research that could affect its credibility?
- Does the study take into account alternative perspectives and counterarguments?
- What is the significance of this research in a broader context?

Students may present their findings to the class as follows:

- Start by briefly summarizing the reading and highlighting its main points,
- Present findings and insights based on the questions above,
- Ask questions to encourage engagement and critical thinking among other students,
- Facilitate the discussion by ensuring all students participate, managing time effectively,
- Provide insights, analysis, or alternate perspectives during the discussion.

Students must submit a one-page reflective report summarizing key discussion points, insights gained, challenges faced, and lessons learned from leading the discussion on the day of their presentation. Students will be assessed based on the quality of the discussion and analysis, the ability to generate discussion among students, effectively facilitate discussion, offer alternative insights, and the quality of the reflective report.

Case Study Presentation 30%
Students will work in groups of 3. Each group will select a specific country and examine it as a case study. The objective is to meticulously study the chosen country's political, economic, social, and cultural aspects, focusing on governance and the rule of law. Students will then prepare and deliver a presentation to the class, sharing their findings and insights. Students should select their topics and case studies at the beginning of the semester and get the instructor's approval. Students are required to conduct extensive research on a particular country. The presentation should:

- Present a brief overview of the country, including, but not limited to, factors leading the country to the current situation (conflict, war, colonization, etc.); political system and governance structures, legal and judicial systems; and international involvement and its impact on the situation,
- Identify significant challenges facing governance and the rule of law,
- Analyze the data to identify key trends, challenges, and opportunities related to governance and the rule of law in the chosen country.
- Focus on one challenge and analyze it in detail. This could be relevant to any topic discussed/planned for this class, i.e., legal uncertainty, judicial dependence, corruption, malfunctioning institutions, lack of accountability, failure to protect human rights, etc.
- Present recommendations and possible solutions.

Students organize their findings into a well-reasoned and coherent presentation with a clear structure, well-defined sections, and visual aids, if possible. A bibliography should be presented at the end of the presentation.

Students submit their presentations on Quercus before the class. In addition to the presentation, **students submit a reflective report** summarizing their findings, insights gained, and lessons learned from the case study assignment. To complete this assignment, students must use various academic sources, including books, book chapters, journal articles, reports, and other academic sources.

Each group will have 15 minutes for their presentation, with each speaker talking for up to 4 minutes, allowing 3 minutes for questions and reflections. Other students are encouraged to reflect on commonalities and differences between the countries they have studied. The presentation will be evaluated based on content, organization, clarity, depth of analysis, presentation skills, and use of material.

Research Essay 30%
Students must write a research essay of no more than 2500 words on a topic related to the course title, The Rule of Law in post-conflict Governance, approved by the instructor. Students can choose any topic that might interest them, whether directly relevant to the course material or beyond the topics covered/planned in the course.

To complete their research, students must use a minimum of 10 sources not included in the course readings. The sources must be credible and consist of books, journal articles, reports, and other credible academic sources. Proper citation using the Chicago style is mandatory for referencing the essay. The essay should also present a bibliography of sources at the end. Please see the University of Toronto Library resources for students for scholarly citation guides: https://guides.library.utoronto.ca/c.php?g=251103&p=5248740.

The essay should be submitted via Quercus no later than Monday, March 4, 2024, by 9:00 am. Additionally, students will prepare a brief research outline that is at most two pages long and contains the research title, research question(s), main research thesis, and literature review/preliminary bibliography. The outline is not graded but must be submitted via Quercus by February 12, 2024, by 9:00 am.

Course outline and reading list
During the semester, the reading list may be revised or adjusted. Any changes to the syllabus will be communicated to you.

Week 1: Introductions, Course Overview, and Post-conflict Governance
January 8, 2024

  Required Readings:

1. Derrick W. Brinkerhoff. 2005. "Rebuilding Governance in Failed States and Post-Conflict Societies: Core Concepts and Cross-Cutting Themes," Public Administration and Development, 25, 3-14.**
2. Tobias Debiel and Ulf Terlinden. 2005. *Promoting Good Governance in Post-Conflict Societies*, Discussion Paper (Eschborn, Germany: GTZ), pp, 10-23. Available at: https://www.bivica.org/files/sociedades-postconflicto.pdf

Additional Readings:
3. Barnett R. Rubin and Humayun Hamidzada. 2007. "From Bonn to London: Governance Challenges and the Future of Statebuilding in Afghanistan," *International Peacekeeping,* 14(1), 8-25. **
4. John Graham, Bruce Amos, and Tim Plumptre, "Principles for Good Governance in the 21st Century," *Policy Brief no 15*, (Institute on Governance, 2003) **

Week 2: Introduction to the Rule of Law
January 15, 2024

Required Readings:
1. Tamanaha, Brian Z. "Functions of the Rule of Law." in *The Cambridge Companion to the Rule of Law*, ed., Jens Meierhenrich and Martin Loughlin, Cambridge: Cambridge University Press, 2021, 221–36. **
2. Lane, Jan-Erik, Political Modernisation: The Rule of Law Perspective on Good Governance. *Open Journal of Political Science*, 5 (2015) 13-25. **

Additional Readings:
1. Grenfell Laura, "Legal Pluralism and the Rule of Law in Timor Leste." *Leiden Journal of International Law* 19, no. 2 (2006): 305–37. **
2. Ginsburg, Tom, and Mila Versteeg. "Rule of Law Measurement," in *The Cambridge Companion to the Rule of Law*, edited by Jens Meierhenrich and Martin Loughlin, 494–512. Cambridge Companions to Law. Cambridge: Cambridge University Press, 2021. **

Week 3: Post-Conflict Constitutions and Constitutionalism
January 22, 2024

Required Readings:
1. Darin E. W. Johnson, "Post-Conflict Constitution-Making," in *Research Handbook on Post-Conflict State Building*, ed. Paul R. Williams and Milena Sterio (Cheltenham, UK: Edward Elgar Publishing, 2020), 6–29. **
2. Rhodri C. Williams, "Constitutional Assistance and the Rule of Law in Post-Conflict Transitions: An Overview of Key Trends and Actors," Research Report (Stockholm: Folke Bernadotte Academy, 2013), pp 23-54. Available at: https://fba.se/contentassets/0a896bcc85b84e88b0ff1446b55be2d5/constitutional-assistance.pdf

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3. Constitution Building after Conflict: External Support to a Sovereign Process," Policy Paper (Stockholm: The International Institute for Democracy and Electoral Assistance (International IDEA), 2011), available at:
   https://www.idea.int/publications/catalogue/constitution-building-after-conflict-external-support-sovereign-process

Additional Readings:
1. Kirsti Samuels and Vanessa Hawkins Wyeth, "State-Building and Constitutional Design after Conflict" (New York: International Peace Academy, 2006), available at:
   https://www.ipinst.org/wp-content/uploads/publications/ipa_rpt_state_building.pdf
2. Luka Biong Deng, "The Challenge of Cultural, Ethnic and Religious Diversity in Peacebuilding and Constitution-Making in Post-Conflict Sudan," *Civil Wars* 7, no. 3 (September 2005): 258–69. **

Week 4: Building Institutions after Conflict
January 29, 2024

Required Readings:
1. Donald L. Horowitz, Conciliatory Institutions and Constitutional Processes in Post-conflict States, 49, *William & Mary Law Review* 1213 (2008).**
2. Their, Alexander, and Jarat Chopra. 2002. "The Road Ahead: Political and Institutional Reconstruction in Afghanistan." *Third World Quarterly* 23:5 (October), pp. 893–907.**

Additional Readings:
1. William Maley. 2006. "Democratic Governance and Post-Conflict Transitions", *Chicago Journal of International Law,* 6 (2): 683-701. **
2. Charles Tripp. 2004. "The United States and state-building in Iraq", *Review of International Studies,* 30, 545–558. **

Week 5: Legal Frameworks and Reform
February 5, 2024

Required Readings:
1. Nathalia Berkowitz, "Legislative Reform in Post-Conflict Settings: A Practitioner's View," *European Journal of Law Reform* 21, no. 1 (2019): 58-82. **
2. Richard Sannerholm, "Legal, Judicial and Administrative Reforms in Post-Conflict Societies: Beyond the Rule of Law Template," *Journal of Conflict and Security Law* 12, no. 1 (January 1, 2007): 65–94. **

Additional Readings:
1. "Criminal Justice Reform in Post-Conflict States, A Guide for Practitioners" (New York: United Nations Office on Drugs and Crime and United States Institute of Peace, 2011), https://www.usip.org/sites/default/files/ROL/11-83015_Ebook.pdf
2. Stephanie Chaban, "Addressing Violence Against Women Through Legislative Reform in States Transitioning from the Arab Spring," in *Gender in Human Rights and Transitional*

** ** Resource available through the University of Toronto Library https://library.utoronto.ca

Justice, ed. John Idriss Lahai and Khanyisela Moyo (Cham: Springer International Publishing, 2018), 113–41. **

Week 6: The need for Judicial reforms
February 12, 2024

Required Readings:
1. Deval Desai; Deborah Isser; Michael Woolcock, "Rethinking Justice Reform in Fragile and Conflict-Affected States: The Capacity of Development Agencies and Lessons from Liberia and Afghanistan," *World Bank Legal Review* 3 (2012): 241-262. **
2. Simon Chesterman, "Rough Justice: Establishing the Rule of Law in Post-Conflict Territories," *Ohio State Journal on Dispute Resolution* 20, no. 1 (2005): 69-98. **

Additional Readings:
1. Maria Dakolias; Kim Thachuk, "Attacking Corruption in the Judiciary: A Critical Process in Judicial Reform," *Wisconsin International Law Journal* 18, no. 2 (2000): 353-406
2. Hiram E. Chodosh, "Reforming Judicial Reform Inspired by U.S. Models," *DePaul Law Review* 52, no. 2 (Winter 2002): 351-382

Week 7: Reading Week – No Class
February 19, 2024

Week 8: Informal Justice and the Rule of Law
February 26, 2024

Required Readings:
1. Tracy Dexter and Philippe Ntahombaye, "The Role of Informal Justice Systems in Fostering the Rule of Law in Post-Conflict Situations - The Case of Burundi" (Henry Dunant Centre for Humanitarian Dialogue, 2005)
2. Erica Harper, *Customary Justice: From Program Design to Impact Evaluation* (Rome: International Development Law Organization, 2011), *selected pages*

Additional Readings:
1. *"Customary Justice and Legal Pluralism in Post-Conflict and Fragile Societies,"* Conference Papers (Washington, DC: United States Institute of Peace, George Washington University, and the World Bank, November 17, 2009), available at: https://www.usip.org/sites/default/files/centers/rol/final%20conference%20packetinprol.doc
2. Marie D. Castetter, "Taking Law into Their Own Hands: Unofficial and Illegal Sanctions by the Pakistani Tribal Councils," *Indiana International & Comparative Law Review* 13, no. 2 (2003): 543-578

Week 9: Human Rights
March 4, 2024

** ** Resource available through the University of Toronto Library https://library.utoronto.ca

Required Readings:
1. Winluck Wahiu, "Building a Culture of Human Rights," *in A Practical Guide to Constitution Building*, ed. Nora Hedling and Markus Böckenförde (Stockholm, Sweden: International Institute for Democracy and Electoral Assistance, 2011.) available at: https://www.idea.int/sites/default/files/publications/chapters/practical-guide-to-constitution-building/a-practical-guide-to-constitution-building-chapter-3.pdf
2. Smith, Leanne M. "Implementing International Human Rights Law in Post Conflict Settings-Backlash without Buy-In: Lessons from Afghanistan." *Muslim World Journal of Human Rights* 5, no. 1 (2009). **

Additional Readings:
1. Marina Ottaway. 2003. "Promoting Democracy after Conflict: The Difficult Choices', *International Studies Perspectives*, 4, 314-322. **
2. Erin Houlihan and William Spencer, *Rule of Law, Governance, and Human Rights in Afghanistan,* 2002 to 2016 (Washington, DC: United States Institute of Peace, 2017), pp 31-40. Available at: https://www.usip.org/sites/default/files/PW130-Rule-of-Law-Governance-and-Human-Rights-in-Afghanistan-2002-to-2016.pdf

Week 10: Transitional Justice and accountability for war crimes
March 11, 2024

Required Readings:
1. Padraig McAuliffe, Padraig. 2010. "Transitional Justice and the Rule of Law: The Perfect Couple or Awkward Bedfellows?" Hague Journal on the Rule of Law, 2(2): 127–154. **
2. UN Security Council, Report of the Secretary-General, "The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies," UN, 12 October 2011. Available at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/N11/542/87/PDF/N1154287.pdf?OpenElement
3. ICTJ. "What is Transitional Justice?" ICTJ – International Center for Transitional Justice. Available at https://www.ictj.org/about/transitional-justice

Additional Readings:
1. Martina Fischer, "Transitional Justice and Reconciliation - Theory and Practice," in *Berghof Handbook for Conflict Transformation* (Berlin: Berghof Foundation, 2011), available at: https://berghof-foundation.org/library/transitional-justice-and-reconciliation-theory-and-practice
2. Payam Akhaven (2001) "Beyond impunity: Can international criminal justice prevent atrocities?" *American Journal of International Law* 95(1).
3. United Nations Secretary-General, S/2011/634, Report of the Secretary-*General: The rule of Law and Transitional Justice in Conflict and Post-Conflict Situations*, 2011.

Week 11: Student Presentations
March 18, 2024

** ** Resource available through the University of Toronto Library https://library.utoronto.ca

Week 12: Fight against corruption
March 25, 2024

Required Readings:
1. John Heilbrunn, "Post-Conflict Reconstruction, Legitimacy and Anti-Corruption Commissions," in *Corruption and Post-Conflict Peacebuilding: Selling the Peace?* ed. Christine Cheng and Dominik Zaum, Cass Series Peacekeeping (London; New York: Routledge, 2012)
2. Sarah von Billerbeck, "Aiding the State or Aiding Corruption?" in *Corruption and Post-Conflict Peacebuilding: Selling the Peace?* Ed. Christine Cheng and Dominik Zaum, Cass Series Peacekeeping (London; New York: Routledge, 2012)

Additional Readings:
1. Jorge G. Castaneda, "Latin Americans Stand up to Corruption," Foreign Affairs, Vol. 95, No. 1 (January/February 2016), available at https://www.foreignaffairs.com/articles/central-americacaribbean/2015-12-14/latin-americans-stand-corruption
2. Philippe Le Billon. 2008. "Corrupting Peace? Peacebuilding and Post-Conflict Corruption," *International Peacekeeping,* 15 (3): 344-361.

Course Policies:

Course Syllabus:
I reserve the right to adjust and update the course syllabus as necessary. In the event of any changes, I will provide timely notice and revised syllabi via Quercus.

Email and communications
Please use email only for time-sensitive questions or quick clarifications. I am pleased to assist you with any email inquiries, provided the questions are concise and can be answered in one or two sentences. If you have a question that requires a more detailed or lengthy explanation, please visit me during my office hours. I will try to respond to all emails within 24 hours; however, please allow up to 72 hours for email responses.

I highly recommend asking questions about the course content and requirements during office hours or appointments. Please be considerate of others and keep your questions concise during office hours.

Using Quercus:
This course will use Quercus to disseminate all course-related information and assignments. It is the student's responsibility to log on to Quercus regularly and obtain relevant information. All written assignments must be submitted through Quercus.

Late submission policies
The students are responsible for keeping track of deadlines and requirements for their assignments. All assignments must be submitted online through Quercus by 11:59 pm on their

due dates. Late assignments will be penalized by 2% per day, including weekends. The number of late days will be determined by submission times on Quercus. Late assignments will not be accepted after marked assignments have been returned to the class.

Students needing an assignment extension must request at least 24 hours before the deadline. Students who require extra time to complete an assignment or cannot attend a lecture due to medical or other emergencies must contact me as soon as possible and before the due date or lecture date. Other coursework and foreseeable circumstances are not valid grounds for an extension.

Grade appeals and remarking policy
Students are requested to wait 48 hours after receiving their assignment before discussing it with me. If you wish to challenge the grade you received, you may request a re-grade within two weeks after marked assignments have been returned. Requests must be submitted in writing and include a 100-200 statement of what students feel was overlooked in the marking of their work. In accordance with the Faculty of Arts and Science policies, remarking does not guarantee an increase in the marks. The remarking could result in an increase, decrease, or no change in your original grade.

Absences:
If you fall sick and it affects your ability to complete your academic work, please notify me immediately. In such a situation, I may request you provide documentation substantiating your medical condition. You can submit an Absence Declaration via ACORN or the University's Verification of Student Illness or Injury (VOI) form, which would indicate the impact and severity of your illness while safeguarding your privacy about the details of the illness. If you cannot submit a VOI for any reason, you may submit an alternative form, like a letter from a doctor, as long as it is an original document and contains the same information as the VOI, including dates, academic impact, practitioner's signature, phone number, and registration number.

For more information on the VOI, please see http://www.illnessverification.utoronto.ca.
For information on the Absence Declaration Tool for A&S students, please see https://www.artsci.utoronto.ca/absence.

Recording the class
Recording audio and video, as well as photographing course materials, is not allowed without prior permission. Students must ask the instructor's explicit permission if they want to record lectures or other course material in any way. If permission is granted to record, it is only for that individual student's personal study use and should not be published or distributed in any way. Students are strictly prohibited from publishing an instructor's notes through any means.

Academic integrity
Academic integrity is of utmost importance. All written assignments must correctly cite any sources used. Failure to do so constitutes plagiarism, which is a serious academic offense. To learn more about how to avoid plagiarism and adequately use sources, review the "How Not to

Plagiarize" guide and other helpful resources available at www.writing.utoronto.ca/advice/using-sources

In most cases, students must submit their course essays to the University's plagiarism detection tool. This tool is designed to review the textual similarity of submitted work and detect potential plagiarism. By submitting their essays, students agree to allow their work to be included in the tool's reference database, which is used solely to detect plagiarism. The terms and conditions that apply to the University's use of this tool can be found on the Centre for Teaching Support & Innovation website (https://uoft.me/pdt-faq).

Using AI-generated writing tools for writing or completing assignments in this course is prohibited. Using ideas or expressions generated by AI as one's own is considered an academic offense.

Code of Conduct:
The University of Toronto expects all members to behave responsibly, courteously, and respectfully towards others. The University of Toronto is committed to promoting equity, human rights, and respect for diversity. Every member of this course should aim to create an atmosphere of mutual respect where everyone can express themselves, engage objectively, and appreciate each other's differences. Students are encouraged to treat others as they want to be treated and avoid actions they do not wish to experience. Students must read the University's:
1. Student Code of Conduct available at: https://governingcouncil.utoronto.ca/secretariat/policies/codestudent-conduct-december-13-2019
2. Policy on the Appropriate Use of Information and Communication Technology https://www.provost.utoronto.ca/planning-policy/informationcommunication-technology-appropriate-use
3. University guidelines on freedom of speech, preventing discrimination and harassment.

Accommodation and Accessibility Services:
I am fully committed to providing students with fair access to the course and reasonable accommodation. Please discuss any special needs at the start of the semester. If you require accommodations or have any accessibility concerns, please contact
Accessibility Services via email at (accessibility.services@utoronto.ca) or visit website http://studentlife.utoronto.ca/accessibility

The University accommodates students who observe religious holidays outside of the regular schedule. Students must inform instructors early of any anticipated absences. Instructors will avoid scheduling mandatory activities during these times. Please let me know if you will be absent due to religious observances as soon as possible.

Health and Wellness:
Students can access various programs and services to support their health and well-being. Many of these programs are listed at https://studentlife.utoronto.ca/department/healthwellness.