Behind the Lens

Using Documentary Films to Spotlight and Redress Genocide, Corruption and Injustice around the Globe

Introduction

Independent documentary filmmaking is leveraging its influence not only at the box office but also across cultures. Whether at the ever-growing number of film festivals, on Oscar® night or among social, political and human rights activists, documentaries have established an important niche in today’s diverse media. Documentaries provide a serious edge in our digital and global age, telling stories in unique, effective and often passionate ways.

This educational unit utilizes interviews with the filmmakers of four films from POV’s 24th and 25th seasons. Together, these films highlight this trend. They are set in various places around the globe—Cambodia, Guatemala, Mexico and the Philippines. Each tells a powerful story that spotlights injustice, either on a massive societal scale, as with the genocides in Cambodia from 1975 to 1979 and Guatemala in the early 1980s, or at the individual level, as with injustices in Mexico, the Philippines and Spain that signal broader failures of the criminal justice systems in those countries. The first two films (Enemies of the People and Granito: How to Nail a Dictator) are being used to help convict government and military leaders accused of genocide, while the latter two films (Presumed Guilty and Give Up Tomorrow) helped or sought to help exonerate innocent men, much as the American documentary The Thin Blue Line contributed to the release of a wrongfully convicted man in 1989.

The lessons draw on interviews with the filmmakers of these four films, video clips for the classroom, two lessons and resources on the POV website and other websites. The lessons focus on the personal stories and artistic perspectives of the filmmakers, the subjects and ethical issues they confronted and the impact of their documentary films on law, the courts and public opinion. Faculty from the social sciences, law and society, history and film/media education should find these topics, discussion questions, classroom activities and research assignments engaging for students and easy to use and adapt.
OBJECTIVES

- Explore how documentary filmmakers have used films to spotlight and redress government killings, corruption and injustices in the criminal justice system.

- Address the ethical responsibilities of, and legal protections for, documentary filmmakers around the globe, as they seek to tell stories about genocide, corruption and injustice.

- Assess the impact of documentary films on court cases, as well as on national and international public opinion.

- Explore socio-legal perspectives on genocide, including the central themes of accountability and reconciliation.

- Study individual cases of injustice in the criminal justice system of countries such as Mexico, the Philippines and Spain.

- View law and the courts through the lens of cross-cultural and cross-national perspectives.

- Compare and contrast how democratic and developing countries define and adhere to the “rule of law.”

Lesson One

Using Film to Study, Critique and Bring Closure to 20th-Century Genocides in Cambodia and Guatemala

Begin the unit by asking students what they know about genocide. What is the definition of genocide? Where exactly around the globe have genocides taken place in the past 50 or 100 years or more? What kinds of courts are empowered to bring the perpetrators of genocides to justice?

Cambodia

Ask students to prepare for the discussion by watching the video interview and/or reading the transcript of the interview with Enemies of the People filmmaker Rob Lemkin at http://www.pbs.org/pov/enemies/video_interview.php. Alternately, at the beginning of class, screen part of or all of the 19-minute interview, which includes short clips from the film.

Use the following questions to discuss Rob Lemkin and Thet Sambath’s documentary film, Enemies of the People:

- In order to gain the trust of key Khmer Rouge leaders involved in the killings, Sambath chose not to reveal that he was a survivor of the Cambodian genocide whose father was killed by the Khmer Rouge. Why do you think he made this decision? What ethical issues were involved? Do you think Sambath was able to separate himself from the grief over his own family’s fate? If so, how?

- Who, exactly, are the “enemies of the people”? How and why did this genocide happen?

- How do documentary films differ from academic research or government reports in purpose and tone? Is the distinction between subjective and objective approaches helpful?

- Can a documentary film like Enemies of the People promote accountability and/or reconciliation? What might be the film’s impact or legacy?

For a short project, ask students to research different aspects of the Cambodian genocide and then assign each student to write a 2- to 3-page paper about one topic. Students can then contribute to an in-class discussion. For example, ask students to investigate:

1. the political and personal motives behind the actions of the Khmer Rouge leaders (for an overview, see the TIME magazine article at http://www.time.com/time/world/article/0,8599,1879785,00.html);

2. U.S. foreign policy toward Cambodia during and after the Vietnam War (see the Yale University Cambodian Genocide Program on U.S. involvement at http://www.yale.edu/cgp/us.html);
(3) the lives of the two key Khmer Rouge leaders, Pol Pot and Nuon Chea; the latter is featured in the documentary and is one of the few key Khmer Rouge leaders still alive today (see a BBC report on the demise and death of Pol Pot at http://news.bbc.co.uk/2/hi/asia-pacific/78988.stm and a New York Times report about Nuon Chea’s arrest in 2007 at http://www.nytimes.com/2007/09/20/world/asia/20cambodia.html?_r=1&ref=nuronchea);

(4) the United Nations-backed tribunal in the Extraordinary Chambers in the Courts of Cambodia now proceeding against Nuon Chea and other Khmer Rouge leaders (see a report from The Voice of America at http://www.voanews.com/khmer-english/news/Nuon-Chea-Says-Court-Evidence-Not-Correct-139457368.html); or

(5) the responses of Cambodians today to justice and reconciliation efforts resulting from the tribunal and the documentary film.

Guatemala

Ask students to prepare by listening to the audio interview of the Granito: How to Nail a Dictator filmmakers Pamela Yates, Peter Kinoy and Paco de Onís at http://www.pbs.org/pov/granito/filmmaker-audio-interview.mp3

Lead a class discussion about the documentary film Granito: How to Nail A Dictator and the genocide in Guatemala:

- What motivated the filmmakers to develop Granito? (Learn more about the three filmmakers, as well as their current and past work, on the Skylight Pictures website, http://skylightpictures.com/.)

- Yates and her colleagues speak at length about their twin passions for documentary filmmaking and human rights. How easily are these interests reconciled? How would you draw the line between “activist,” “journalist” and “filmmaker”?

- Granito is also a film about the making of another documentary film, When the Mountains Tremble, by Yates and Kinoy, which describes the violence of a Guatemalan conflict in the early 1980s between a military regime and insurgents seeking to overturn that regime. At what point does the term “genocide” apply to an armed conflict between a sovereign nation and its dissenting citizens?

- The filmmakers volunteered to turn over outtakes from When the Mountains Tremble to help human rights lawyers build a legal case against Guatemalan general and dictator Efraín Ríos Montt. How do you respond to Yates’ comment that some people think “activism pollutes art”?

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Is there a distinction between using a finished, edited film to convict a dictator versus using raw footage? Is the latter privileged or legally protected by journalist shield laws (laws that protect journalists from subpoenas that would force them to identify their confidential sources and/or hand over unpublished print or video material)? The First Amendment Center provides an excellent treatment of shield laws in the United States at http://www.firstamendmentcenter.org/shield-laws

Ask students to research various aspects of the genocide in Guatemala and assign each student to write a 2- to 3-page paper on one aspect. Alternately, break the class into small groups and assign the groups to research and present short, in-class oral reports on the different aspects. Consider such topics as:

(1) the political background of the conflict, including the changing role of the United States at various points (see Frontline World at http://www.pbs.org/frontlineworld/stories/guatemala704/history/timeline.html and the Washington Post on President Clinton’s remarks about U.S. policy mistakes in Guatemala at http://www.washingtonpost.com/wp-srv/inatl/daily/march99/clinton11.htm);

(2) the level and types of violence during this time period (see a Yale University-provided paper on violence and genocide in Guatemala at http://www.yale.edu/gsp/guatemala/TextforDatabaseCharts.html);

(3) the legal case begun in the Spanish national courts in the 1990s to bring Ríos Montt to justice and the principle of universal jurisdiction (see a brief from the Center for Justice and Accountability at http://www.cja.org/section.php?id=83); or


(5) the most up to date chronicle of the pursuit for justice in Guatemala (see Kate Doyle’s report filed in the National Security Archive Electronic Briefing Book No. 373 at http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB373/index.htm)

Compare and Contrast

Below are a few of the many topics that teachers and students could pursue, either in class or as outside-of-class research and writing assignments.

- Compare the approaches of the two sets of filmmakers toward their subjects, particularly toward the key perpetrators of killings in Cambodia and Guatemala,
respectively, Nuon Chea and Efraín Ríos Montt. Do they approach their films and subjects differently? Are there also similarities?

- Pamela Yates considers herself a filmmaker and human rights defender but bases her stories on journalism. What (or whom) do U.S. journalist shield laws protect? Do most other democracies around the globe have similar laws? Which kinds of journalists are protected under such laws?

- Are efforts to seek justice sometimes at odds with promoting national reconciliation? Can accountability from the legal system help lead to national closure on the subject of genocide?

Other films with similar themes:

*Outside the Law: Stories from Guantánamo* (2009) by Polly Nash and Andy Worthington  
*Shoah* (1985) by Claude Lanzmann  
*War Don Don* (2010) by Rebecca Richman Cohen  
*State of Fear & The Reckoning: The Battle for the International Criminal Court* (2005) by Pamela Yates, Paco de Onís and Peter Kinoy  
*The Fall of Fujimori* (2006) by Ellen Perry

**Lesson Two**

**Using Film to Address Injustices in the Criminal Justice System: The Cases of Mexico (Antonio Zúñiga) and the Philippines and Spain (Paco Larrañaga)**

**Mexico**

In advance of class, assign students to watch the interview video and/or read the transcript of the interview with *Presumed Guilty* filmmakers Roberto Hernández and Layda Negrete at [www.pbs.org/pov/presumed_guilty/interview.php](http://www.pbs.org/pov/presumed_guilty/interview.php). Alternately, at the beginning of class screen the 12-minute interview, which includes short film clips.

Lead the class in discussion of the following questions:

- Why did two lawyers turn to the medium of documentary film? What were they trying to accomplish?

- Do you think that Hernández and Negrete were acting primarily as filmmakers or lawyers on this project? Why?

- What ethical standards apply to these filmmakers—those for lawyers or those for journalists? Or both? Do ethical issues for lawyers and journalists sometimes conflict? How were, or should, such conflicts be resolved?
Why do you think these two filmmakers were granted access to film this case?

What kind of impact do you think this film might have on Mexico’s criminal justice system? How could you try to measure or assess the film’s impact?

Why has Mexico’s criminal justice system operated under a “presumption of guilt”? Is this presumption an integral part of Mexico’s inquisitorial system of justice? Are some of the reforms now being implemented nationwide aimed at expanding the rights of suspects accused of crimes? How might Mexico’s preoccupation with curbing the drug cartels influence criminal justice reforms?

For homework, ask the students to research Antonio Zúñiga to learn more about his case, the man himself and the aftermath of his imprisonment and release from prison. An informative New York Times article that addresses the state of criminal justice reform in Mexico can be found at http://www.nytimes.com/2011/03/05/world/americas/05mexico.html?pagewanted=all. For a more in-depth discussion of the criminal justice system in Mexico and its limitations, see the Wall Street Journal article at http://online.wsj.com/article/SB10001424052748704322004574475492261338318.html. To learn more about the success of the documentary inside Mexico, as well as the government’s efforts to ban the film, read the Guardian article at http://www.guardian.co.uk/world/2011/mar/07/mexico-film-ban-presumed-guilty.

Assign each student to write a 2- to 3-page paper on the subject. Alternately, divide the class into a few small groups and ask each group to research one aspect of the case and then present a short in-class oral report. Possible topics include the investigation and arrest, the trial and the retrial, the role of lawyers in the case, Zúñiga’s personal story, the film’s impact in Mexico and the current state of the criminal justice system and reforms in Mexico.

Philippines

Assign students to read the Bomb article about Give Up Tomorrow filmmakers Michael Collins and Marty Syjuco at http://bombsite.com/articles/6198.

Lead the class in discussion of the following questions:

- The filmmakers say that they were not trying to make an “advocacy” film. How would such a film differ from the kind of documentary they have made?

- Do you think filmmaker Syjuco’s personal connection to Paco Larrañaga’s family potentially compromises or enriches the film? Does it make no difference? Are ethical standards relevant in this assessment?
The filmmakers criticized the Philippine media for its tabloid-style rush to judgment in Larrañaga’s case, saying that it contributed to his wrongful conviction. In the United States, there are elaborate rules in place that restrict pretrial publicity in criminal cases. Do you think these rules work any better in practice? Do you ever rely on documentaries or alternative news sources to counter the mainstream media?

Victims’ family members play a central role in the filmmakers’ narrative, in particular the mother of the two girls who were kidnapped, raped and killed and the mother of Larrañaga, the young man convicted (along with six other young men) of these crimes. What influence should victims’ families have in the adjudication and sentencing of criminal cases?

Is the filmmakers’ broader goal of contributing “to campaigning for the abolishment of the death penalty” worldwide a realistic one? Does a film about an injustice that didn’t actually lead to an execution have the capacity to set reform in motion?

Ask the students to write 3- to 5-page research papers, focusing on Paco Larrañaga, his family background, the case and the political intrigue surrounding it, including his eventual transfer from a Philippine prison to a Spanish prison. (See an article from The FilAm: A Magazine for Filipino Americans in New York at http://thefilam.net/?p=1062; a piece on the case from Fair Trials International at http://www.fairtrials.net/cases/article/francisco_juan_larranaga_paco; and an article on it from a Philippine news service at http://www.philstar.com/Article.aspx?articleid=511899.)

Or assign students to research the death penalty in the Philippines, particularly the changes to it since 1986. Why did the Philippines abolish the death penalty in 2006? (For a perspective on the influence of the Catholic Church on the death penalty debate, see http://www.asianews.it/news-en/Filipino-Catholics-oppose-return-of-the-death-penalty-20559.html.) Was Larrañaga’s case in any way related to its abolition? Why might the European Union seek to influence the Philippines in this matter? (For some background, see http://www.eu-un.europa.eu/articles/fr/article_5324_fr.htm.) For a broad discussion of the Philippine experience with capital punishment, see http://news.bbc.co.uk/2/hi/asia-pacific/5117128.stm. Which countries, in addition to the United States, still maintain the death penalty? (For an authoritative source, consult the Death Penalty Information Center at http://www.deathpenaltyinfo.org/abolitionist-and-retentionist-countries.)

Compare and Contrast

Here are a few of the many topics and issues that teachers and students could pursue, either in class or as outside-of-class research and writing assignments.
• How do the two filmmaking teams differ with respect to their backgrounds, expertise and inspiration for making the films? Do you think “lawyers with cameras” see and show the world differently than experienced documentary filmmakers do? Would they define and portray injustice similarly or differently?

• Compare the resources and legal systems of the three countries—Mexico, the Philippines and Spain—that provide the backdrops for these two films. Examine such factors as income and wealth, levels of education, political systems, legal systems, levels of crime and so on. Are they similar or different?

• Compare the approaches of Mexico and the Philippines to capital punishment. The Philippines abolished the death penalty in 2006, while Mexico did so in 2005. What led to the abolition in each country? Did the two countries make distinctions between military and civilian executions? How widespread was the use of the death penalty prior to abolition? Are there pressures in either country to reinstate the death penalty? Why?

Other films with similar themes:

Harlan County U.S.A. (1976) by Barbara Kopple
Harvest of Shame (1960) by Fred W. Friendly
An Inconvenient Truth (2006) by Davis Guggenheim
JFK (1991) by Oliver Stone
Mississippi Cold Case (2007) by David Ridgen
No Tomorrow (2011) by Roger Weisberg and Vanessa Roth
Paradise Lost: The Child Murders at Robin Hood Hills (1996) by Joe Berlinger and Bruce Sinofsky
Scottsboro: An American Tragedy (2000) by Daniel Anker and Barak Goodman
Skokie (1981) by Herbert Wise
The Staircase (2004) by Jean-Xavier de Lestrade
The Thin Blue Line (1988) by Errol Morris
Titicut Follies (1967) by Frederick Wiseman
The Trials of Darryl Hunt (2006) by Ricki Stern and Annie Sundberg

Resources
Criminal Justice Degrees Guide: 10 Crime Documentaries Every Law Student Should See
http://www.criminaljusticedegreesguide.com/features/10-crime-documentaries-every-law-student-should-see.html

Enemies of the People
http://enemiesofthepeoplemovie.com/

Ford Foundation/JustFilms Initiative
http://www.fordfoundation.org/issues/freedom-of-expression/justfilms#have-you-heard-from-johannesburg
Gallagher, Callahan and Gartrell: Documentaries and Films Based on True Life Stories
http://www.gcglaw.com/resources/entertainment/documentaries.html

Give Up Tomorrow
http://www.pacodocu.com/

Granito: How to Nail A Dictator
http://skylightpictures.com/films/granito

The New York Times: “Randall Adams, 61, Dies; Freed with Help of Film”

Northwestern Law Center on Wrongful Convictions
http://www.law.northwestern.edu/cwc/exonerations/txAdamsSummary.html

Penn Program on Documentaries and the Law
http://www.law.upenn.edu/academics/institutes/documentaries/

ABOUT THE AUTHOR
John Paul Ryan is a social studies and education consultant, providing program, editorial, and outreach services. Previously, he was Director of College & University Programs for the American Bar Association Division for Public Education and a member of the political science faculty at Vassar College. He has written widely on courts, judges, and criminal justice.