

# Politics 327: Transitional Justice

W 1:15-4:05

Professor: Andy Reiter

Office Hours: Skinner 107, T 2:45-3:45, TH 10:45-11:45, or by appointment

## Course Description and Materials

As societies emerge from periods of authoritarian rule or civil war, they face the daunting task of engaging past human rights violations. States have a myriad of options at their disposal, ranging from granting blanket amnesties to hosting complex trials and truth commissions. In making these decisions, new leaders face pressures from former authoritarian actors, victims' groups, and international organizations. The process of settling accounts with the past is sometimes decades long and rife with political controversy. This course analyzes the problems facing societies with past human rights violations, the numerous options they have at their disposal to engage these abuses, and the political, legal, economic, and moral ramifications of each choice. There are no required books for the course. All readings will be provided electronically. Readings should be read in the order they are listed each week on the syllabus.

## Course Requirements

Your grade is based on class participation and three assignments. The major project for this course is for you to become an expert on a contemporary case of human rights violations (of your choosing, with approval). You will write a policy brief describing the violations and transitional justice response to date, and providing recommendations for policymakers moving forward. The second part of the project will be for you to select one of those policy recommendations and design it yourself. You may choose a trial and select the venue, defendants, and charges. You can paint or sculpt a model of a memorial. You can design lessons for children to use in schools. For this part of the project, you are encouraged to be creative and are free to pursue the aspect of the transitional justice that interests you most. You will present your final project to the class at the end of the semester. More details on each of these assignments, including examples of past student work, are provided on Moodle.

## Grade Breakdown

Participation	20%
Policy Brief	30%
Final Presentation	20%
Final Project	30%

## Course Guidelines

Any cheating or plagiarism of any kind will result in a zero for the course. If you have any questions on what constitutes plagiarism, please ask. The onus is on you not to ensure your work abides by academic standards. Late assignments are not accepted for credit unless there are extenuating circumstances and you obtain *prior* approval from me. If a class is canceled for any reason, we will trim and combine readings; I will email instructions accordingly.

## A Note on the Course

While most of the readings are academic in nature, this is a course on how societies recover from authoritarianism and violence, and as such, you will, at times, be exposed to descriptions of violent acts (including mass killings and sexual crimes), confessions of perpetrators, testimony of victims, and difficult moral and ethical questions. Some of you may also have experienced violence or are from a country in which mass violence occurred. Some of you may have direct experience with transitional justice mechanisms and debates. So if at any point you anticipate that particular readings or discussions will be difficult for you, please contact me ahead of time. Similarly, if after readings or a discussion, you feel unsettled or troubled in anyway, please contact me. It is also important to respect the views of each other during discussions. For many of the questions we will engage, there is no right answer. For example, the debate on who is guilty in a crime as large as the Holocaust will never be settled. So we will strive to take a step back and analyze these questions analytically. Rather than weigh the merits of different views on a question like this, we will instead seek to understand the reasons why those different views exist and what implications each has for the study of the events.

## Course Schedule

### Wednesday September 9 Introduction to the Course

- ❖ Death and the Maiden (Film) in class.

### Wednesday September 16 Transitional Justice Decisions

- ❖ Ruti G. Teitel, “Transitional Justice Genealogy,” *Harvard Human Rights Journal* 16 (2003): 69-94.
- ❖ Tricia Olsen, Leigh Payne, and Andrew Reiter, “Coming to Terms,” in *Transitional Justice in Balance: Comparing Processes, Weighing Efficacy* (Washington, DC: United States Institute of Peace Press, 2010): 9-28.
- ❖ A. James McAdams, “Transitional Justice: The Issue that Won’t Go Away,” *International Journal of Transitional Justice* 5:2 (2011): 304-12.

### Tuesday September 22 **\*\*Case Selections Due by 1:15 PM via email\*\***

### Wednesday September 23 The Origin of Trials: Nuremberg

- ❖ David Bosco, *Rough Justice: The International Criminal Court in a World of Power Politics* (New York, NY: Oxford University Press, 2014), Chapter 2.
- ❖ Richard Overy, “The Nuremberg Trials: International Law in the Making,” in *From Nuremberg to The Hague: The Future of International Criminal Justice*, edited by Philippe Sands (New York, NY: Cambridge University Press, 2003), 1-29.
- ❖ Stephen J. Massey, “Individual Responsibility for Assisting the Nazis in Persecuting Civilians,” *Minnesota Law Review* 71 (1986): excerpts.
- ❖ Diane F. Orentlicher, “Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime,” *Yale Law Journal* 100:8 (1991), excerpts.
- ❖ Carlos S. Nino, “Response: The Duty to Punish Past Abuses of Human Rights Put into Context – The Case of Argentina,” *Yale Law Journal* 100:8 (1991), excerpts.

**Wednesday September 30 A New Wave of Trials**

- ❖ Victor Peskin, “Beyond Victor’s Justice? The Challenge of Prosecuting the Winners at the International Criminal Tribunals for the Former Yugoslavia and Rwanda,” *Journal of Human Rights* 4:2 (2005): 213-31.
- ❖ Christina Larson, “Festival of the Dead,” *The New Republic*, 7 May 2008.
- ❖ Phil Clark, “Gacaca: Rwanda’s Experiment in Community-Based Justice for Genocide Crimes Comes to a Close,” *Foreign Policy Digest*, April 2010.

**Wednesday October 7 Permanent Justice: ICC, Regional Courts, and Universal Jurisdiction**

- ❖ David Bosco, *Rough Justice: The International Criminal Court in a World of Power Politics* (New York, NY: Oxford University Press, 2014), Chapter 1.
- ❖ Naomi Roht-Arriaza, “The Multiple Prosecutions of Augusto Pinochet,” in *Prosecuting Heads of State* edited by Ellen L. Lutz and Caitlin Reiger (Cambridge: Cambridge University Press, 1009), 77-94.
- ❖ Henry Kissinger, “The Pitfalls of Universal Jurisdiction,” *Foreign Affairs* 80:4 (2001): 86-98.

**Tuesday October 13 \*\*First Half of Policy Brief Due by 1:15 PM via Moodle\*\***

**Wednesday October 14 Truth Commissions**

- ❖ Priscilla Hayner, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (New York, NY: Routledge, 2011), chapter 15.
- ❖ Erin Daly, “Truth Skepticism: An Inquiry into the Value of Truth in Times of Transition,” *International Journal of Transitional Justice* 2:1 (2008): 23-41.
- ❖ Leigh A. Payne, *Unsettling Accounts: Neither Truth nor Reconciliation in Confessions of State Violence* (Durham, NC: Duke University Press, 2008): 107-40.
- ❖ Sandra Rubli and Briony Jones, “Archives for a Peaceful Future,” *swisspeace Essential*, 1|2013.

**Wednesday October 21 Amnesties and DDR Programs  
\*\*Midterm Participation Grades and Course Evaluations\*\***

- ❖ Renée Jeffery, *Amnesties, Accountability, and Human Rights* (Philadelphia, PA: University of Pennsylvania Press, 2014), 21-49.
- ❖ Jack L. Snyder and Leslie Vinjamuri, “Trials and Errors: Principle and Pragmatism in Strategies of International Justice,” *International Security* 28:3 (2003): 5-44.
- ❖ “DDR in Peace Operations: A Retrospective,” United Nations Department of Peacekeeping Operations, Office of Rule of Law and Security Institutions, Disarmament, Demobilization and Reintegration (DDR) Section, 2010.
- ❖ Mark Freeman, “Amnesties and DDR Programs,” *International Center for Transitional Justice Research Brief*, February 2010.

**Wednesday October 28**

**Lustration, Vetting, and Institutional Reforms**

- ❖ Roger Duthie, "Introduction," in *Justice as Prevention: Vetting Public Employees in Transitional Societies*, edited by A. Mayer-Rieckh and P. De Greiff (New York: Social Science Research Council, 2007): 17-37.
- ❖ Roman David, "From Prague to Baghdad: Lustration Systems and their Political Effects," *Government and Opposition* 41:3 (2006), 347-372.
- ❖ James P. Pfiffner, "US Blunders in Iraq: De-Baathification and Disbanding the Army," *Intelligence and National Security* 25:1 (2010): 76-85.

**Tuesday November 3**

**\*\*Second Half of Policy Brief and Final Project Proposals Due by 1:15 PM via Moodle\*\***

**Wednesday November 4**

**Reparations**

- ❖ De Greiff, Pablo, "Repairing the Past: Compensation for Victims of Human Rights Violations," in Pablo De Greiff, ed., *The Handbook of Reparations* (New York: Oxford, 2006), 1-18.
- ❖ Jon Elster, "On Doing What One Can: An Argument against Post-Communist Restitution and Retribution and a Means of Overcoming the Communist Legacy," *East European Constitutional Review* (1992): 15-17.
- ❖ Ta-Nehisi Coates, "The Case for Reparations," *The Atlantic Monthly*, June 2014.
- ❖ Horowitz, David "The Latest Civil Rights Disaster: Ten Reasons Why Reparations are a Bad Idea, and Racist, Too," *Salon* 30 May 2000.

**M-F, November 9-13**

**\*\*Required Individual Meetings on Final Projects\*\***

**Wednesday November 11**

**Monuments and Memorialization**

- ❖ Judy Barsalou and Victoria Baxter, "The Urge to Remember: The Role of Memorials in Social Reconstruction and Transitional Justice," Stabilization and Reconstruction Series No. 5., Washington DC: United States Institute of Peace, 2007.
- ❖ Elizabeth Jelin, "Public Memorialization in Perspective: Truth, Justice and Memory of Past Repression in the Southern Cone of South America," *International Journal of Transitional Justice* 1:1 (2007): 138-56.
- ❖ Ksenija Bilbija and Leigh Payne, "Introduction—Time is Money: The Memory Market in Latin America," in *Accounting for Violence: Marketing Memory in Latin America*, edited by Ksenija Bilbija and Leigh Payne (Durham, NC: Duke University Press, 2011): 1-58.

**Tuesday November 17**

**\*\*Final Policy Briefs Due by 1:15 PM via Moodle\*\***

**Wednesday November 18**

**Apology and Reconciliation**

- ❖ Elizabeth A. Cole and Karen Murphy, "History Education Reform, Transitional Justice, and the Transformation of Identities," in *Identities in Transition: Challenges for Transitional Justice in Divided Societies*, edited by Paige Arthur, 334-368 (New York, NY: Cambridge University Press, 2010).
- ❖ Jennifer Lind, "Sorry I'm Not Sorry: The Perils of Apology in International Relations," *Foreign Affairs* 21 November 2013.
- ❖ Philip Gourevitch, "The Life After" *The New Yorker*, May 4, 2009.

<b>Wednesday</b>	<b>November 25</b>	<b>No Class – Thanksgiving Break</b>
<b>Wednesday</b>	<b>December 2</b>	<b>Final Presentations</b>
<b>Wednesday</b>	<b>December 9</b>	<b>Final Presentations</b>
<b>Sunday</b>	<b>December 20</b>	<b>**Final Projects Due at 1:15 PM on Moodle**</b>